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Tuesday
May 31, 1988

Federal Register

Briefings on How To Use the Federal Register—
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THE FEDERAL REGISTER

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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

KANSAS CITY, MO

WHEN: June 10; at 9:00 a.m.

WHERE: Room 147-148,
Federal Building,
601 East 12th Street,
Kansas City, MO

RESERVATIONS: Call the St. Louis Federal Information Center;

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NEW YORK, NY

WHEN: June 13; at 1:00 p.m.

WHERE: Room 305C,
26 Federal Plaza,
New York, NY

RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center, 212-264-4810.

SPARKILL, NY

WHEN: June 14; at 9:30 a.m.

WHERE: Loughheed Library,
St. Thomas Aquinas College,
Route 340,
Sparkill, NY

RESERVATIONS: Call Olive Ann Tamborelle, 914-359-9500, ext. 291

WASHINGTON, DC

WHEN: June 16; at 9:00 a.m.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC

RESERVATIONS: Maxine Hill, 202-523-5229

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Rules and Regulations

Federal Register

Vol. 53, No. 104

Tuesday, May 31, 1988

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

Federal Employees' Group Life Insurance Program; Continuation of Coverage During Military Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is adopting as final its interim regulations under the Federal Employees' Group Life Insurance (FEGLI) Program that allow an employee who enters the military on active duty or active duty for training to continue FEGLI coverage for up to 12 months. The regulations implement a statutory change effective January 1, 1987, included in the Federal Employees' Retirement System Act of 1986.

EFFECTIVE DATE: June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Margaret Randall (202) 632-4634.

SUPPLEMENTARY INFORMATION: On April 15, 1987, OPM published interim regulations in the *Federal Register* (52 FR 12133) with a request for comments from interested parties. No comments were received. The only change from the interim regulations is that the final regulations change several citations for consistency with the new paragraph designations.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal

employees, annuitants, and former spouses.

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Life insurance, Retirement.

U.S. Office of Personnel Management.
Constance Horner,
Director.

Accordingly, OPM is adopting as final its interim regulations on 5 CFR Part 870 published on April 15, 1987, at 52 FR 12133, with the following changes:

PART 870—BASIC LIFE INSURANCE

1. The authority citation for Part 870 continues to read as follows:

Authority: 5 U.S.C. 8716.

§ 870.501 [Amended]

2. In § 870.501, the two references to "(e)" in the first sentence of paragraph (d)(4) and the reference to "(e)" in paragraph (d)(6) are revised to read "(d)".

§ 870.601 [Amended]

3. In § 870.601(a)(4) and 870.701(a)(2), references to "§ 870.501(e)" are revised to read "§ 870.501(d)".

[FR Doc. 88-12005 Filed 5-27-88; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 615]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 615 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 375,000 cartons during the period May 29 through June 4, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 615 (§ 910.915) is effective for the period May 29 through June 4, 1988.

FOR FURTHER INFORMATION CONTACT:

Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on May 24, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a 13-0 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market for lemons is steady.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public

interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.915 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.915 Lemon Regulation 615.

The quantity of lemons grown in California and Arizona which may be handled during the period May 29, 1988, through June 4, 1988, is established at 375,000 cartons.

Dated: May 25, 1988

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 88-12126 Filed 5-27-88; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1068

[Docket No. AO-178-A41]

Milk in the Upper Midwest Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Upper Midwest order by making reserve supply plants subject to minimum

shipping standards during the months of August through December in order to be pool plants under the order. The plants will be required to ship to pool distributing plants 5 percent of the total milk production received from dairy farmers or diverted by the plant operator during each month of August and December, and 8 percent of such receipts during each of the months of September, October and November in order to maintain their pool status. Two or more reserve supply plants will be allowed to have their receipts and shipments to pool plants considered on a combined, or unit, basis to meet the minimum shipping requirements or a "call" by the market administrator for milk supplies needed for Class I, or fluid, use. However each handler in such a unit will have to ship at least 5 percent of its receipts on an individual basis during one month of any August through December period in order to qualify for pool status during the month of December.

All of the changes are based on industry proposals considered at a public hearing held July 7-8, 1988 and are necessary to assure an adequate supply of milk in an orderly manner for Class I (fluid) use in the Upper Midwest marketing area.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT:

Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued June 19, 1987; published June 25, 1987 (52 FR 23843).

Partial Decision: Issued September 2, 1987; published September 9, 1987 (52 FR 33943).

Order amending the Order: Issued September 28, 1987; published October 2, 1987 (52 FR 36909).

Recommended Decision: Issued January 12, 1988; published January 19, 1988 (53 FR 1360).

Final Decision: Issued April 27, 1988; published May 3, 1988 (53 FR 15690).

Correction to Final Decision: Issued May 5, 1988; published May 10, 1988 (53 FR 16556).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Upper Midwest order was first issued and when it was amended. The previous findings and determinations are hereby

ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings Upon the Basis of the Hearing Record

A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Upper Midwest marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Upper Midwest marketing area; and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The Upper Midwest order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) Determinations.

It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in

the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1068

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Upper Midwest marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. The authority citation for 7 CFR Part 1068 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. In § 1068.7 Pool plant, amend paragraph (d) by revising (d)(3) and (d)(6), redesignating (d)(5) as (d)(7) and revising new (d)(7), redesignating (d)(4) as (d)(5) and revising new (d)(5), and adding new (d)(4) to read as follows:

§ 1068.7 Pool plant.

(d) * * *

(3) The operator of the plan has filed a request with the market administrator for pool reserve supply status no later than July 15 of each year. Once qualified as a pool plant pursuant to this paragraph, such status shall be effective for August and continue through the following July unless the operator requests nonpool status for the plant prior to the first day of the month for which nonpool status is requested, the plant subsequently fails to meet all of the conditions of this paragraph, or the plant qualifies as a pool plant under another order;

(4) The volume of bulk fluid milk products shipped from the plant to pool distributing plants during each of the months of August and December is 5 percent or more and during each of the months of September, October, and November is 8 percent or more of the total Grade A milk received at the plant from dairy farmers during the month (including milk delivered to the plant from dairy farms for the account of a cooperative association pursuant to § 1068.9(c) and milk diverted from the plant by the plant operator but excluding milk diverted to the plant from another pool plant), subject to the following conditions:

(i) These shipping percentages may be decreased by up to five percentage points during the months of August and

December, and by up to eight percentage points during the months of September, October and November, by the Director of the Dairy Division if he finds that such revision is necessary to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons. If the investigation shows that a revision of the shipping percentage might be appropriate, he shall issue a notice stating that the revision is being considered and invite data, views, and arguments;

(ii) A cooperative association that operates a reserve supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1068.9(c);

(iii) A proprietary handler may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1068.13(d);

(5) The operator of the plant supplies fluid milk products to pool distributing plants located within an area designated by the market administrator as the "call area" in compliance with any announcement by the market administrator requesting a minimum level of shipments, as further provided below:

(i) The market administrator may require such supplies of fluid milk products from operators of any pool reserve supply plants within the call area whenever he finds that milk supplies for Class I use at pool distributing plants within the call area are needed from plants qualifying under this paragraph. Before making such a finding, the market administrator shall investigate the need for such shipments either on his own initiative or at the request of interested persons. If his investigation shows that such shipments might be appropriate, he shall issue a notice stating that a shipping announcement is being considered and inviting data, views, and arguments with respect to the proposed shipping announcement;

(ii) For the purpose of meeting any shipping requirement announced by the market administrator;

(A) Qualifying shipments to pool distributing plants within the call area may originate from any plant or producer milk supplies of the handler provided that shipments from sources other than the plant(s) subject to the call and milk supplies for which a cooperative association is the handler pursuant to § 1068.9(c) must be in addition to any shipments already being made by the handler and may not result from shifting milk supplies from a pool

distributing plant outside the call area to one within the call area; and

(B) Shipments from a reserve supply plant within the call area to a pool distributing plant outside the call area or to a comparable plant regulated under another Federal order may count as if delivered to a pool distributing plant within the call area if the market administrator is notified of the amount of any such commitments to ship milk prior to announcement of a shipping requirement pursuant to this paragraph. Qualifying shipments to an other order plant may not be classified pursuant to § 1068.42(b)(3); and

(iii) Failure of a handler to comply with any announced shipping requirement pursuant to § 1068.7(d)(5), including making any significant change in his marketing operations that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of pool status for the plant pursuant to § 1068.7(d). A plant losing pool status in this manner or a plant that requests nonpool status may not again qualify as a pool plant pursuant to § 1068.7(d) until the following August;

(6) In order to meet the requirements of paragraphs (d)(4) and (d)(5) of this section, two or more reserve supply plants operated by one or more handler(s) may qualify for pooling as a unit during the following months of August through July by meeting the applicable percentage requirements of this paragraph in the same manner as a single plant, provided that:

(i) The handler(s) file a request with the market administrator for such unit status no later than July 15 of each year. Such a request should specify the order in which the plants would cease to be considered part of the unit if the unit fails to meet the applicable percentage requirements of § 1068.7(d) (4) and (5). Any plant that ceases to be part of a unit will not be eligible to rejoin a unit until the following August. No plant may become part of a unit after the unit is formed and the market administrator has been notified; and

(ii) Each handler operating reserve supply plant(s) for which the shipping percentages in § 1068.7(d)(4) are met as part of a unit described in § 1068.7(d)(6) must ship at least 5 percent of the Grade A milk received at its plant(s) from dairy farmers during the month (including milk delivered to the handler's plant(s) from dairy farms for the account of a cooperative association pursuant to § 1068.9(c) and milk diverted from the plant(s) by the plant operator but excluding milk diverted to the plant(s) from another pool plant) to pool

distributing plants in one of the months of August through December in order for the handler's plant(s) to be a reserve supply plant(s) for the month of December.

(7) A plant must have been a pool plant under this order pursuant to § 1068.7 (a), (b) or (d) during each of the preceding months of August through December to be a pool reserve supply plant during the following months of January through July.

Signed at Washington, DC, on May 23, 1988.

Kenneth A. Gilles,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 88-12100 Filed 5-27-88; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Refund of Interest

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final Amendment.

SUMMARY: Pursuant to NCUA's policy to periodically review each of its regulations, in December, 1987, the NCUA issued a proposed revision of § 701.24 ("Refund of Interest") for public comment. The NCUA Board has now approved the proposal in final form. The final rule eliminates unneeded provisions and grants Federal credit unions more flexibility in making interest refunds.

EFFECTIVE DATE: May 31, 1988.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Staff Attorney, NCUA, Office of General Counsel, at the above address, or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: Section 701.24 ("Refund of Interest") implements section 113(9) of the Federal Credit Union Act [12 U.S.C. 1761b(9)], which empowers a Federal credit union ("FCU") board of directors to:

authorize interest refunds to members of record at the close of business on the last day of any dividend period from income earned and received in proportion to the interest paid by them during that dividend period

Section 701.24 currently provides:

(a) The board of directors of a Federal credit union may authorize an interest refund to members who paid interest to the credit union during any dividend period and who are members of record at the close of

business on the last day of such dividend period.

(b) The amount of interest refund to each member shall be determined as a percentage of the interest paid by the member. Such percentage may vary according to classifications of loans established pursuant to 12 CFR 701.21-1(d).

(c) Based upon a determination that such loans have not made a significant contribution to the earnings that make the refund possible, the board of directors may exclude from an interest refund (i) any classification of loans determined in accordance with paragraph (b) of this section, and (ii) all loans delinquent at least two months, or all loans delinquent for such greater period as is determined by the board.

(d) The board of directors' minutes shall document the reasons for any decision to vary interest refund rates or exclude certain loans from a refund.

(e) The board of directors may authorize an interest refund for a dividend period only during such time as it may declare a dividend. However, if in a given calendar year a credit union has dividend periods more frequent than annual and an interest refund was not authorized for one or more dividend periods, the board, during the time permitted for the declaration of the current dividend, may authorize an interest refund for the current dividend period and for any one or more of the omitted dividend periods.

(f) The board of directors shall not authorize an interest refund for any dividend period unless dividends have been declared and paid on share accounts.

(g) An interest refund shall be recorded on the books of the credit union as a reduction of interest income.

On December 3, 1987, the NCUA Board proposed to simplify and clarify this provision (52 FR 46601 (Dec. 9, 1987)):

(a) By eliminating reference in subsection (b) to "12 CFR 701.21-1(d)", since that provision had previously been deleted from the Regulations;

(b) By eliminating subsection (g), since the subject—the required accounting treatment of an interest refund—is already more fully covered in the Accounting Manual and under generally accepted accounting standards;

(c) By eliminating from subsection (d) the Federal paperwork requirement that the board set forth in its minutes the reasons for any variance in interest refund;

(d) By amending subsection (c) to increase FCU board flexibility to exclude classes of loans from an interest refund; and

(e) By deleting subsection (e) and adding a sentence to subsection (a), to simplify an FCU's task of deciding whether it has sufficient dividends to permit an interest refund.

NCUA received three comment letters on its proposed revision; two from credit union trade associations and one from a Federal credit union. Two commenters

were in total agreement with the proposal. The third commenter (a credit union trade association) supported maintaining the requirement that the reasons for varying interest refund rates or exclusion of certain loans from interest refunds be documented in the FCU board minutes. This commenter stated that decisions on interest refunds would be made at board meetings; that FCU boards are required by the FCU Act to keep minutes of all meetings (12 U.S.C. 1761b); and that common law generally requires that official actions taken at a meeting of a board of directors be noted in its minutes.

The NCUA Board does not believe a separate paperwork requirement on this subject in NCUA's Rules and Regulations is appropriate. The legal requirement on an FCU Board does not depend upon the language in the present § 701.24. Moreover, the Board believes including a statement of reasons for any variance in interest refunds would be a wise business decision which an FCU board would do even without legal obligation.

The final rule is effective upon publication (no thirty-day delay) since it relieves current restrictions. It allows for interest refunds based on the interest rate of the loan and eliminates the regulatory requirement that reasons for variations in interest rate refunds be set forth in the board minutes.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board hereby certifies that the final rule will not have a significant impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This rule eliminates the collection of information requirement found in the present rule (documentation in FCU board meeting minutes of loans excluded from interest refunds). Since the final rule eliminates the collection requirement, the rule need not be sent to the Office of Management and Budget for approval.

Executive Order 12812

This rule does not affect state regulation of credit unions. The rule implements a provision of the FCU Act concerning refunds of interest by Federal credit unions.

List of Subjects in 12 CFR Part 701

Credit unions, Interest refund.

By the National Credit Union
Administration Board on May 20, 1988.

Becky Baker,
Secretary of the Board.

Accordingly, NCUA has amended its
regulations as follows:

PART 701—[AMENDED]

1. The authority citation for Part 701
continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759,
1761a, 1761b, 1766, 1767, 1762, 1784, 1787,
1789, 1798.

In addition, § 701.31 is also authorized by
15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1781 and 42
U.S.C. 3601-3610.

2. Section 701.24 is revised to read as
follows:

§ 701.24 Refund of interest.

(a) The board of directors of a Federal
credit union may authorize an interest
refund to members who paid interest to
the credit union during any dividend
period and who are members of record
at the close of business on the last day
of such dividend period. Interest refunds
may be made for a dividend period only
if dividends on share accounts have
been declared and paid for that period.

(b) The amount of interest refund to
each member shall be determined as a
percentage of the interest paid by the
member. Such percentage may vary
according to the type of extension of
credit and the interest rate charged.

(c) The board of directors may
exclude from an interest refund:

(1) A particular type of extension of
credit;

(2) Any extension of credit made at a
particular interest rate; and

(3) Any extension of credit that is
presently delinquent or has been
delinquent within the period for which
the refund is being made.

[FR Doc. 88-11992 Filed 5-27-88; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 701

Fees Paid by Federal Credit Unions; Share, Share Draft, and Share Certificate Accounts

AGENCY: National Credit Union
Administration ("NCUA").

ACTION: Final amendment.

SUMMARY: This amendment makes
certain technical changes to §§ 701.6(a)
and 701.35(c) of NCUA's Rules and
Regulations. The change to § 701.6(a)
conforms the rule of a prior NCUA
Board decision to assess its operational
fees based on the Agency's fiscal year,
rather than the calendar year. The

changes in § 701.35(c): (a) Clarify that
Federal credit unions ("FCU's") must
comply with all applicable Federal laws
concerning the types of disclosures, fees
or charges, time for crediting of
deposited funds, and other matters
relating to share, share draft and share
certificate accounts; and (b) simplify the
provision's wording. The amendments
do not alter any existing obligations or
liabilities.

EFFECTIVE DATE: May 31, 1988.

ADDRESS: National Credit Union
Administration, 1776 G Street NW,
Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT:
Timothy P. McCollum, Assistant
General Counsel, or Roy DeLoach, Staff
Attorney, Office of General Counsel, at
the above address, or telephone: (202)
357-1030.

SUPPLEMENTARY INFORMATION:

I. Section 701.6(a)

Section 701.6(a) of NCUA's Rules and
Regulations now provides for NCUA's
assessment of an operational fee for its
"calendar year" costs. On July 16, 1985,
however, the Board changed NCUA's
accounting of operational fees assessed
FCU's to apply to NCUA's fiscal year
rather than the calendar year.
Notification was sent to all Federal
credit unions at that time; and the
annual operating fees notification letter
states that the fee is for the NCUA fiscal
year's operating expenses.

The Board amendment of § 701.6(a)
would change reference to "calendar
year" to "National Credit Union
Administration fiscal year (October 1 to
September 30)". The change therefore
simply conforms the rule to the Board's
prior decision and current practice.

II. Section 701.35(c)

Section 701.35(c) of NCUA's Rules and
Regulations (12 CFR 701.35(c)) provides:

A Federal credit union is empowered to
determine the types of disclosures, fees or
charges, time for crediting of deposited funds,
and all other matters, not inconsistent with
this Section, affecting the opening,
maintaining or closing of a share, share draft
or share certificate account. To the extent
that state law attempts to regulate such
activity, it is not applicable. Nothing herein is
intended, however, to allow a Federal credit
union to amend or modify its contract with a
member unilaterally unless it has previously
reserved the right to do so.

Under authority granted by Title VI of
the Competitive Equality Banking Act of
1987 ("Expedited Funds Availability"),
the Federal Reserve Board has issued
proposed regulations which would
require an FCU to make funds placed in
share draft accounts available to
members by certain times and disclose

its funds availability policy to its
members. The Federal Reserve Board
expects to issue final rules by June 1988,
which will become effective later this
year.

The NCUA Board believes a general
reference to "other Federal law," which
would include these requirements and
others that may follow, will be helpful to
alert FCU's to the need to look beyond
the FCU Act and NCUA's Rules and
Regulations in assuring compliance with
Federal laws.

The Board has also taken this
opportunity to simplify some of the
wording in § 701.35(c). The last
sentence, regarding the need of an FCU
to comply with its contractual
obligations, has been deleted, and a
similar statement added in the first
sentence. The preemption language has
also been shortened.

III. Changes Effective Immediately

These changes in no way alter
existing FCU authorities or
responsibilities. The amendments are
therefore being made effective
immediately, without request for public
comment.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and
certifies that this amendment will not
have a significant economic impact on a
substantial number of small credit
unions because the charges are directed
at clarification of present regulations
rather than creation of new regulatory
restrictions. Therefore, a regulatory
flexibility analysis is not required.

Paperwork Reduction Act

The amendment does not contain any
collection of information requirements.

Executive Order 12612

The amendment does not affect state
regulation of state chartered credit
unions. The amendment simplifies, but
does not change the substance of, a
provision preempting certain state
regulation of Federal credit unions. This
provision has previously been subject to
public notice and comment.

List of Subjects in 12 CFR Part 701

Credit unions, fees paid by Federal
credit unions, Share, Share draft, Share
certificate accounts, Federal laws.

By the National Credit Union
Administration Board on May 20, 1988.
Becky Baker,
Secretary of the Board.

Accordingly, NCUA amends its
Regulations as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority for Part 701 is revised to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, 1798.

In addition § 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1781 and 42 U.S.C. 3601-3610.

2. Section 701.6(a) is revised to read as follows:

§ 701.6 Fees Paid by Federal Credit Unions.

(a) *Basis for assessment.* Not later than January 31 of each calendar year or as otherwise directed by the Board, each Federal credit union shall pay to the Administration for the current National Credit Union Administration fiscal year (October 1 to September 30) an operating fee in accordance with a schedule as fixed from time to time by the National Credit Union Administration Board based on the total assets of each Federal credit union as of June 30 of the preceding year or as otherwise determined pursuant to paragraph (b) this section.

3. Section 701.35(c) is revised to read as follows:

§ 701.35 Share, share draft, and share certificate accounts.

(c) A Federal credit union may, consistent with this Section, other Federal law, and its contractual obligations, determine the type of disclosures, fees or charges, time for crediting of deposited funds, and all other matters affecting the opening, maintaining or closing of a share, share draft or share certificate account. State laws regulating such activities are not applicable to Federal credit unions.

[FR Doc. 88-11993 Filed 5-27-88; 8:45 am]
BILLING CODE 7535-01-M

12 CFR Parts 701 and 703

Loans to Members and Lines of Credit to Members

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Interim final amendment.

SUMMARY: This amendment gives Federal credit unions ("FCU's") an additional tool for use solely to reduce risk of loss from interest rate increases between the time the interest rate

commitment is made to a member on a real estate loan and the time the loan is sold on the secondary market. This additional tool must be used in accordance with written policies and procedures prepared by the FCU.

Because the seasonal peak in FCU real estate lending is at hand, the amendment has been made effective immediately, without prior public comment, but temporarily requires NCUA Regional Office permission prior to an individual FCU's engaging in the activity, and monthly reporting to NCUA. These temporary requirements are planned to be deleted after public comments have been received and further study has been completed.

EFFECTIVE DATE: This amendment is effective on an interim basis May 31, 1988. Comments must be received on or before August 29, 1988.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, DC 204546.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley or Edward P. Dupcak, Office of Examination and Insurance, at the above address, or telephone: (202) 357-1065; Timothy P. McCollum or Julie Tamulevitz, Office of General Counsel, at the above address, or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION:

I. Loan Production Risks

There are two kinds of risks an FCU must manage from the time a member applies for a loan to the time the loan is sold on the secondary market or included in its loan portfolio as an FCU investment:

a. "Fallout risk," the possibility that a party making a commitment to the FCU on the loan will fail to perform, either because there is no legal obligation to do so or because that obligation is breached. There are two kinds of fallout risk:

1. "Borrower fallout," where the member fails to close on a loan commitment. This may occur, for example, if interest rates decrease after the commitment is made and the member finds a better rate elsewhere; or, in real estate loans particularly, the seller of the property fails to perform.

2. "Investor fallout," where the party committed to taking the loan as an investment, either the FCU or a purchaser on the secondary market, fails to close. This can occur, for example, if the investor finds a higher-rate loan elsewhere; or if the investor or the FCU itself is without sufficient capital to perform.

b. "Price risk," the possibility that the value of the commitment the FCU makes to the borrower will decrease relative to the value of the FCU commitment to the investor or to the anticipated value to the FCU as an investment. There are three kinds of price risk:

1. Increased interest-rate price risk, where an FCU commits at application to a specified interest rate and rates increase.

2. Decreased interest-rate price risk, where an FCU commits to sell an uncommitted loan at a specified interest rate and rates decrease.

3. Product risk, where unusual characteristics in a loan arrangement—e.g., interest-only payment for an extended term—depress its fair market value.

II. Tools Available to an FCU for Managing Loan Production Risks

A. General

There are, in general, three ways to reduce loan production risks: (1) Asset/liability management; (2) forward sale of loans, on a mandatory or optional basis; and (3) sale or purchase of substitute assets with characteristics similar to a loan in production, on a mandatory or optional basis. As the NCUA Board has previously pointed out (49 FR 12,671 (March 30, 1984)), an FCU presently has authority to use the first two:

[The] range of business strategies available to FCU's [includes]: (a) not investing or lending at long-term fixed rates; (b) using variable rate lending and floating rate investments; (c) using secondary markets to sell long-term loans to limit or manage the level of exposure; (d) using improved funds management strategies under deregulation to create a "basket" of share maturities which would complement the duration of longer-term assets; and (e) using reserves (established for this purpose) to temporarily cover losses should rising interest rates lead to short-term mismatches.

B. Sale and Purchase of Substitute Assets

Congress recently granted FCU's the power to invest in mortgage-related securities [12 U.S.C. 1757(16)(b)]. Through interest-only ("IO"), principal only ("PO"), and "residual" variations on these investments are sometimes marketed as risk management tools, as explained in Letter to Credit Unions No. 96 and IRPS 88-1, such instruments are so complex, varied, and volatile, there use to manage risk is almost always unwise.

The other kinds of transactions in substitute assets widely available involve futures and options (or standby commitments) on interest-sensitive

securities. In 1979, NCUA prohibited both. At that time, it concluded (44 FR 42674 (July 20, 1979):

Some commenters suggested that Federal credit unions should be permitted to engage in buying and selling standby commitments for authorized securities as a means of hedging against potential losses incurred in the making of real estate loans. The Administration believes that the informal and unorganized nature of the market in standby commitments argues against its use as a hedging device by Federal credit unions.

Since the Administration does not believe that hedging by means of buying and selling standby commitments for authorized securities is necessary to make real estate loans, the final rule contains [a] * * * general ban on standby commitments. However, it does not prohibit a Federal credit union from selling its real estate loans by use of a standby commitment in order to facilitate the making of such loans. This has been accomplished by defining the term "security" as not to include loans to members or residential real estate loans authorized under subsections 701.21-6 and 701.21-8 of Part 701 of the National Credit Union Administration rules and regulations. Such activity would be incidental to the exercise of a Federal credit union's real estate lending authority.

As to futures, the Board stated (44 FR 42676 (July 20, 1979):

The proposed regulation limited Federal credit union participation in a futures market to the purchase or sale of a futures contract as a hedging device incident to the assembly of a pool of mortgages for sale in the secondary market. The Administration will issue a proposed regulation on that subject. Until that regulation is published in final form, Federal credit unions may not participate in any futures trading.

In 1984, the NCUA Board again considered allowing an FCU to use options and futures as a risk management tool; and again decided to prohibit their use in all circumstances (49 FR 12671 (March 30, 1984)):

The Board does not consider standby commitments an essential tool to reduce the potential risks that Federal credit unions may have because of maturity mismatches between their assets and liabilities. Because of their complexity and their inherently speculative nature, reliance on standby commitments to offset mismatching can only lead to confusion, uncertainty, and ultimately to safety and soundness problems * * *

The Board has [also] determined not to authorize investment in futures contracts at this time. To the extent that futures contracts are seen as tools to reduce the interest rate risk that results from a mismatch between asset and liability maturities, the Board believes that there are already a range of other business strategies available to FCU's * * *. Further, it is the opinion of the Board that as long as Federal credit unions take in short-term funds and elect to invest or

lend in long-term instruments, there is a risk. No option, including futures or standby commitments, eliminate the risk; they may, at best, just reduce some of the potential costs.

III. Need for Additional Risk Management Tools in Real Estate Loan Production

The tools now available to an FCU for managing interest rate risks have generally worked well. This has been made somewhat easier because traditionally the vast majority of loans originated and held by FCU's have been relatively short-term. Though in 1977, Congress allowed an FCU to make long-term real-estate loans [Pub. L. 95-22, Section 302(a)], FCU's generally maintained their character as consumer lenders.

Particularly in the last two years, however, FCU's have significantly increased real estate lending. In 1987, while total FCU lending grew 16 percent, FCU real estate lending grew 48 percent. By December 31, 1987, real estate loans constituted 27 percent of FCU loan investments; many more such loans were sold in the secondary market.

Real estate loans pose different risk management problems for an FCU. Because of their size and term, to plan properly members need to have the interest-rate set on the day they apply for the loan. The time between application and closing on real estate loans, however, is generally significant—60 days or more. Interest rates on fixed-rate, long-term real estate loans can change dramatically virtually overnight. And many real estate loan applications, for a variety of reasons, do not lead to closing. An FCU is therefore likely to have significantly greater price and fallout risks with its real estate lending than with its consumer lending.

The risk management tools generally applicable to loans and other interest-sensitive assets and liabilities are equally useful to real-estate loan production, particularly if the FCU intends to hold the loans for investment. Mandatory forward commitments to sell loans—a risk management tool presently available—should be the primary means for managing risk for an FCU selling its real estate loan originations in the secondary market; they are relatively inexpensive and offer the most complete risk coverage.

But for an FCU wishing to offer a specific interest rate on the date a member applies for a real estate loan which will be sold on the secondary market, these tools may not be adequate to manage the FCU's increased interest-rate price risk.

Mandatory forward commitments will eliminate price risk for the loan volume

certain to close. But their use for the portion of the loans in production which may or may not close, while decreasing price risk, increases the borrower fallout risk, since the FCU will remain liable to deliver the loan committed to the secondary market regardless of whether the member closes. A possible alternative, optional forward commitments, are available from FNMA and FHLMC, but the expensive. Moreover, they are not normally available from reliable parties for VA and FHA loans, which constitute a substantial portion of FCU real estate lending.

IV. Substitute Asset Transactions as a Tool To Manage Increased Interest-Rate Price Risk

A. Cash Market and Futures Transactions in Financial Instruments

One way for an FCU to manage interest rate risk on the portion of an FCU's real estate loan commitments where closing is uncertain is through purchase or sale of readily marketable substitute assets—those which can be expected to respond to changes in interest rates similar to the FCU's loan commitments. Generally, the substitute assets with the closest correlation to FCU real estate loans are GNMA, FNMA, and FHLMC securities, and Treasury notes, and bonds. Properly structured, transactions in these securities, matched to loan commitments which may not close, can provide effective insurance against price and investor fallout risk without increasing borrower fallout risk.

Use of the cash market in these securities, however, would likely require an unrealistic capital commitment. Moreover, as with establishing a short position in the futures market for these securities, an FCU could find it impossible to determine upfront the costs of managing risk. The normal way in which cash and futures markets in substitute assets are used to manage risk of interest rate changes in a loan portfolio is to establish a short position (i.e., to sell securities not owned) and to take an off-setting long position (to purchase securities) later. The difference in the sale and purchase prices, which can only be determined at the end, is the cost of the risk management insurance.

B. Options on Financial Instruments

A more attractive substitute asset transaction for managing increased interest-rate price risk in the real estate loans an FCU is not certain will close are long positions on put options for financial instruments.

An option is a right, but not an obligation, to buy or sell an item at a prearranged price within an agreed-upon period. A "put" option is the right to sell; a "call" option is the right to buy. There are two parties to an option:

1. The "holder" (who is said to enter into a "long position"). This person, in exchange for paying an upfront fee, holds the power to purchase (with a call option) or sell (with a put option), in accordance with the terms of the option contract.

2. The "writer" (who is said to enter into a "short position"). This person, in exchange for receiving an upfront fee, must stand ready to sell (with a call option) or purchase (with a put option) on demand by the holder, in accordance with the terms of the option contract.

A long position on a call option or a short position on a put option for a financial instrument like a GNMA security or a Treasury bond helps manage risk of an interest rate decrease. These are therefore not appropriate tools when used alone for the limited problem faced by FCU's in real estate loan production.

A short position on a call option for one of these financial instruments, used alone, helps manage risk of an interest rate increase, but, like a short position in the cash market or in a future, it exposes the writer to unknown costs if interest rates decrease.

A long position on a put option for one of these financial instruments seems the best substitute asset protection generally available against increased interest-rate price risk: it increases in value as interest rates increase; and the maximum potential cost, the upfront fee, is known at the outset.

C. Risks in Long Put Option Positions

An FCU's establishing long positions in put options can be useful in managing risk only if properly structured. No substitute asset transaction will perfectly match the interest rate sensitivity of an FCU's loans in production. Expectations on real estate loan prepayments can cause the value of an FCU's loans in production to fluctuate differently from Treasuries—these expectations can even cause loans to differ from mortgage-related securities, depending on differences in stated interest-rate and maturity. Prepayment expectations can also cause 30-year real estate loans to perform more like Treasury notes than Treasury bonds. Supply and demand factors for Treasuries may cause them to move out of step with an FCU's loans in production. A one basis point change in yield on a Treasury note does not equal

a one basis point yield change in a 30-year loan in production.

Construction of a proper basket of substitute asset transactions to match the loans in production for which interest rate protection is needed requires sophistication and continual monitoring.

V. Section 701.21(i)

Particularly since this expansion of FCU power is being done as an interim final rule without prior public comment, § 701.21(i) is a conservative extension of FCU authority:

a. An FCU is limited to long positions on put options for GNMA, FNMA, and FHLMC securities. As mortgage-related securities, they offer the greatest potential for adequate price risk coverage of an FCU's real estate loans while providing upfront an exact awareness of the maximum insurance cost.

b. An FCU may purchase put options only on an exchange designated by the Commodity Futures Trading Commission or from a primary dealer in Government securities. This limits investor fallout risk. Though no CFTC-designated exchange currently offers options on GNMA, FNMA, or FHLMC securities (or on futures of those securities), plans for one are being developed. The over-the-counter market established by primary dealers is a competitive market.

c. An FCU may purchase put options only to reduce risk of loss from interest rate increases on loans being produced for sale on the secondary market. This rule does not, at this time, permit an FCU to purchase put options to limit risk on loans produced or held in its loan portfolio for investment. An FCU producing loans for sale in the secondary market is likely to be more in need of interest-rate protection since its volume of loans can be significant relative to the FCU's assets. An FCU producing loans for its own long-term investment is limited to available capital. The asset/liability management tools now available to manage risk for loans produced for investment—as well as similar risks for Treasury bonds, GNMA securities and other long-term investments—seem to be adequate.

d. An FCU may engage in put purchases only pursuant to policies approved and supervised by its board of directors.

This amendment empowers an FCU to purchase options in securities permissible for FCU investment, for the sole purpose of reducing risk in loan production; it is therefore authorized by sections 107(5), 107(7), 107(16), and

120(a) of the FCU Act (12 U.S.C. 1757(5), 1757(7), 1757(16), 1766(a)).

VI. Interim Final Rule

FCU real estate lending for all intents and purposes means home mortgage lending. Since the spring and summer are the peak home buying seasons, FCU's need this authority now for use in 1988. By requiring prior NCUA Regional Office permission to engage in this activity and monthly reporting to that Regional Office, risk of loss to the Insurance Fund for this expansion of FCU authority as an interim final rule has been minimized. It is anticipated that these requirements will be deleted when a final rule is issued.

VII. Accounting for Put Option Purchases

Options accounting has not been officially addressed by the Financial Accounting Standards Board ("FASB"). In the absence of specific authoritative accounting advice, guidelines provided in an American Institute of Certified Public Accountants (AICPA) Accounting Standards Division issues paper, "Accounting for Options," issued March 6, 1986, are helpful. Pending further NCUA study, an FCU engaged in purchasing puts as a risk management tool must follow these guidelines. In summary form, these are the relative conclusions of the AICPA as discussed in the issues paper:

(a) For purchased options, the premium is reflected as an asset.

(b) The "time value" part of the premium paid should be charged to income (amortized) over the period the option is open. "Time value" is the difference between the total premium for an option and the option's intrinsic value. "Intrinsic value" is equal to the difference between the exercise price and the market price of the underlying security or commodity.

(c) To qualify for hedge accounting, a loan commitment must expose the credit union to unwanted price or interest rate risk and the option reduces that exposure because:

(i) At the time the option is designated as a hedge, it is probable that changes in the market value of the item underlying the option will correlate highly with changes in the market value of the item being hedged, and

(ii) A clear economic relationship exists between the price of the item underlying the option and the price of the item being hedged, and

(iii) The option is designated as a hedge.

(d) If the option qualifies as a hedge of a firm commitment or an anticipated

transaction involving an item stated at other than market, the change in the market price of the option should be deferred and included in the measurement of the hedged transaction; however, the recognition of losses should not be deferred if it is estimated that deferral would lead to recognized losses in later periods.

Note.—Under FASB rules for the mortgage banking industry, mortgage loans held for sale should be valued at the lower of cost or market at the balance sheet date.

VII. Request for Comments

The NCUA Board has perceived a need for this expansion of FCU authority, but is not wedded to any particular approach. The Board welcomes comments on all aspects of this interim final rule.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board hereby certifies that this interim final amendment will not have a significant impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This interim final amendment has two recordkeeping requirements: (1) An FCU must prepare written plans and policies for engaging in put purchases for risk management; and (2) an FCU must maintain monthly summaries of its options transactions, and submit a copy to NCUA. At this point, it seems likely that these requirements will affect fewer than ten FCU's; therefore, the requirements of the Paperwork Reduction Act of 1980 do not apply.

Executive Order 12612

This amendment does not affect state regulation of credit unions. It implements provisions of the Federal Credit Union Act applying only to Federal credit unions.

List of Subjects

12 CFR Part 701

Credit unions, Financial options contracts.

12 CFR Part 703

Credit unions, Investments.

By the National Credit Union Administration Board on May 20, 1988.

Becky Baker,
Secretary of the Board.

Accordingly, NCUA has amended its regulations as follows:

PART 701—[AMENDED]

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1798.

Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1981 and 42 U.S.C. 3601–3610.

2. Section 701.21 is amended by adding paragraph (i):

§ 701.21 Loans to members and lines of credit to members.

(i) *Put Option Purchases in Managing Increased Interest-Rate Risk for Real Estate Loans Produced for Sale on the Secondary Market*—(1) *Definitions*. For purposes of this § 701.21(i):

(i) "Financial options contract" means an agreement to make or take delivery of a standardized financial instrument upon demand by the holder of the contract at any time prior to the expiration date specified in the agreement, under terms and conditions established either by—

(A) A contract market designated for trading such contracts by the Commodity Futures Trading Commission, or

(B) By a Federal credit union and a primary dealer in Government securities that are counterparties in an over-the-counter transaction.

(ii) "FHLMC security" means obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454 and 1455).

(iii) "FNMA security" means an obligation, participation, or any instrument of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association.

(iv) "GNMA security" means an obligation, participation, or any instrument of or issued by, or fully guaranteed as to principal and interest by, the Government National Mortgage Association.

(v) "Long position" means the holding of a financial options contract with the option to make or take delivery of a financial instrument.

(vi) "Primary dealer in Government securities" means:

(A) A member of the Association of Primary Dealers in United States Government Securities; or

(B) Any parent, subsidiary, or affiliated entity of such primary dealer where the member guarantees (to the

satisfaction of the FCU's board of directors) over-the-counter sales of financial options contracts by the parent, subsidiary, or affiliated entity to a Federal credit union.

(vii) "Put" means a financial options contract which entitles the holder to sell, entirely at the holder's option, a specified quantity of a security at a specified price at any time until the stated expiration date of the contract.

(2) *Permitted Options Transactions*. A Federal credit union may, to manage risk of loss through a decrease in value of its commitments to originate real estate loans at specified interest rates, enter into long put positions on GNMA, FNMA, and FHLMC securities:

(i) If the real estate loans are to be sold on the secondary market within ninety (90) days of closing;

(ii) If the positions are entered into:

(A) Through a contract market designated by the Commodity Futures Trading Commission for trading such contracts, or

(B) With a primary dealer in Government securities;

(iii) If the positions are entered into pursuant to written policies and procedures which are approved by the Federal credit union's board of directors, and include, at a minimum:

(A) The Federal credit union's strategy in using financial options contracts and its analysis of how the strategy will reduce sensitivity to changes in price or interest rates in its commitments to originate real estate loans at specified interest rates;

(B) A list of brokers or other intermediaries through which positions may be entered into;

(C) Quantitative limits (e.g., position and stop loss limits) on the use of financial options contracts;

(D) Identification of the persons involved in financial options contracts transactions, including a description of these persons' qualifications, duties, and limits of authority; and description of the procedures for segregating these persons' duties;

(E) A requirement for written reports for review by the Federal credit union's board of directors at its monthly meetings, or by a committee appointed by the board on a monthly basis, of:

(1) The type, amount, expiration date, correlation, cost of, and current or projected income or loss from each position closed since the last board review, each position currently open and current gains or losses from such positions, and each position planned to be entered into prior to the next board review;

(2) Compliance with limits established in the policies and procedures; and

(3) The extent to which the positions described contributed to reduction of sensitivity to changes in prices or interest rates in the Federal credit union's commitments to originate real estate loans at a specified interest rate; and

(iv) If the Federal credit union has received written permission from the appropriate NCUA Regional Director to engage in financial options contracts transactions in accordance with this § 701.21(i) and its policies and procedures as written.

(3) *Recordkeeping and reporting.* (i) The reports described in § 701.21(i)(2)(iii)(E) for each month must be submitted to the appropriate NCUA Regional Office by the end of the following month.

(ii) The records described in § 701.21(i)(2)(iii)(E) must be retained for two years from the date the financial options contracts are closed.

(4) *Accounting.* A Federal credit union must account for financial options contracts transactions:

(i) In accordance with standards established by the NCUA Board in the *Accounting Manual for Federal Credit Unions*, available from NCUA, Administrative Office, 1776 G St. NW., Washington, DC 20456, or such other instruction as may be deemed appropriate; or

(ii) To the extent not inconsistent with NCUA Board instruction, in accordance with generally accepted accounting standards or principles.

PART 703—[AMENDED]

3. The authority citation for Part 703 is revised to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15), 1766(a), and 1789(a)(11).

4. Section 703.1 is revised to read as follows:

§ 703.1 Scope.

Sections 107(7), 107(8) and 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(7), 1757(8), 1757(15)), set forth those securities, deposits, and other obligations in which Federal credit unions may invest. Included are securities issued or fully guaranteed by the United States Government or any of its agencies, shares of central credit unions and any federally-insured credit union, accounts in other federally-insured financial institutions, certain mortgages and mortgage-related securities, and other specified investments. This part interprets several of the provisions of sections 107(7), 107(8) and 107(15)(B). It also places

limits on the types of transactions that Federal credit unions may enter into in connection with the purchase and sale of authorized securities, deposits, and obligations under sections 107(7), 107(8) and 107(15)(B). This part does not apply: to investments in loans to members and related activities, which are governed by §§ 701.21, 701.22 and 701.23 (12 CFR 701.21, 701.22 and 701.23); to the purchase of real estate-secured loans pursuant to section 107(15)(A), which is governed by § 701.23; to investment in credit union service organizations, which is governed by § 701.27 (12 CFR 701.27); or to investment in fixed assets, which is governed by § 701.36 (12 CFR 701.36).

5. Section 703.4(a) is revised to read as follows:

§ 703.4 Prohibited activities.

(a) Except as provided in § 701.21(i), a Federal credit union may not purchase or sell a standby commitment.

* * * * *

[FR Doc. 88-11991 Filed 5-27-88; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 136

Enforcement of Nondiscrimination on the Basis of Handicap in Small Business Administration Programs

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: This regulation requires that the Small Business Administration operate all of its programs and activities to ensure nondiscrimination against qualified individuals with handicaps. It sets forth standards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition for individual with handicaps and qualified individual with handicaps, and establishes a detailed complaint mechanism for resolving allegations of discrimination against the Small Business Administration. This regulation is issued under the authority of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by the Small Business Administration.

EFFECTIVE DATE: July 15, 1988.

FOR FURTHER INFORMATION CONTACT: J. Arnold Feldman, Chief, Office of Civil Rights Compliance, Small Business Administration, 1441 L Street NW.—Rm. 501, Washington, DC 20416, (202) 653-6054 (Voice) or (202) 653-6579 (TDD). These are not toll free numbers.

SUPPLEMENTARY INFORMATION: On July 2, 1984, the Small Business Administration (SBA) published a Notice of Proposed Rulemaking (NPRM) for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap as it applies to programs and activities conducted by the SBA. 48 FR 27164. Comments were received from seven organizations representing individuals with handicaps. Most were the same as those submitted to the Department of Justice on its proposed regulation for its federally conducted programs, concerning the deletion of the regulation's "undue financial and administrative burdens" language, asserting that the Agency was imposing a lesser requirement on itself than on recipients of Federal financial assistance. Commenters also requested that "all agency resources" be considered instead of specific program or activity funding, by the Agency head when deciding whether a contemplated action would result in undue financial and administrative burdens. SBA's responses to the comments will be discussed under the appropriate sections.

Section 504 requires that regulations that apply to programs and activities of Federal Executive agencies shall be submitted to the appropriate authorizing committees of Congress and that such regulations may take effect no earlier than the thirtieth day after they have been so submitted. The Agency has today submitted this regulation to the House Education and Labor Committee, the Senate Labor and Human Resources Committee, and the House and Senate Small Business Committees. The regulation will become effective on July 15, 1988.

This rule applies to all programs and activities conducted by the Small Business Administration. Copies of this rule are available on tape for those with impaired vision. Copies may be obtained from the Office of Civil Rights Compliance at the address listed above.

Background

The purpose of this rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, as it applies to programs and activities conducted by the SBA. As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, section 119 (Pub. L. 95-602, 92 Stat. 2982), and the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810), section

504 of the Rehabilitation Act of 1973 states that:

No otherwise qualified individual with handicaps in the United States, * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

29 U.S.C. 794 (1978 amendment italicized).

The substantive nondiscrimination obligations of the Agency, as set forth in this rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. See 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal Government shall have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.* 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

There are, however, some language differences between this rule and the Federal Government's section 504 regulations for federally assisted programs. These changes are based on the Supreme Court's decision in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), and the subsequent circuit court decisions interpreting *Davis* and section 504. See *Dopico v. Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association v. Lewis*, 655 F.2d 1272 (D.C. Cir. 1981) (APTA); see also *Rhode Island Handicapped Action Committee v. Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983).

These language differences are supported by the decision of the Supreme Court in *Alexander v. Choate*, 469 U.S. 287 (1985), where the Court held that the regulations for federally assisted programs did not require a recipient to modify its durational

limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable" modifications, *id.* at 300, and explicitly noted that "[t]he regulations implementing 504 (for federally assisted programs) are consistent with the view that reasonable adjustments in the nature of the benefit offered must at times be made to assure meaningful access" *id.* at n.21 (emphasis added).

Incorporation of these changes, therefore, makes this regulation implementing section 504 for federally conducted programs consistent with other Federal Agencies' regulations implementing section 504 for federally assisted programs, as they have been interpreted by the Supreme Court. Many of those regulations were issued prior to the interpretations of section 504 by the Court in *Davis*, subsequent lower court decisions interpreting *Davis*, and the Court's decision in *Alexander*. Consequently, their language does not reflect the interpretations of section 504 provided by the Supreme Court and by the various circuit courts. Nevertheless, this interpretation of those regulations must be consistent with the holdings of the Federal courts. SBA believes that there are no significant differences between this rule for federally conducted programs and the judicial interpretations of section 504 regulations for federally assisted programs.

This regulation has been reviewed by the Department of Justice under Executive Order 12250. 45 FR 72995, 3 CFR, 1980 Comp., p. 298. It is an adaptation of the final rule published by the Department of Justice, which reflects recent case law and takes into consideration the various comments received on the Department of Justice NPRM.

This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067. 43 FR 28967, 3 CFR, 1978 Comp., p. 206. It is not a major rule within the meaning of Executive Order 12291, 46 FR 13193, 3 CFR, 1981 Comp., p. 127, since it is not likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, a regulatory impact

analysis has not been prepared. This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act. 5 U.S.C. 601-612. This rulemaking contains no reporting or recordkeeping requirements which are subject to the Paperwork Reduction Act. 44 U.S.C. Chapter 35.

Section-by-Section Analysis and Response to Comments

Section 136.101 Purpose.

Section 136.101 states the purpose of this rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by the Small Business Administration. No comments were received on this section.

Section 136.102 Application.

This regulation applies to all programs or activities conducted by the Small Business Administration, except programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States. Under this section, a federally conducted program or activity is, in simple terms, anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by this regulation: Those involving general public contact as part of ongoing agency operations and those directly administered by the Agency for program beneficiaries and participants. Activities in the first category include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the Agency's facilities (e.g., library). Activities in the second category include programs that provide Federal services or benefits (Small Business Development Centers, and conferences or workshops sponsored or cosponsored by the Agency). No comments were received on this section.

Section 136.103 Definitions.

Most of the comments on this section concentrated on the definition of "qualified handicapped person," and requested that "Auxiliary aids be required in all aspects of SBA's federally-conducted programs".

"Agency" is defined as the Small Business Administration.

"Assistant Attorney General."

"Assistant Attorney General" refers to

the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the Agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 136.160(a)(1), they may also be necessary to meet other requirements of the regulation. Comments on the definition of auxiliary aids are discussed in connection with § 136.160.

"Complete complaint" is defined to include all the information necessary to enable the Agency to investigate the complaint. This definition is necessary, because the 180 day period for the Agency's investigation, § 136.170(f)(1), begins when the Agency receives a complete complaint.

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted.

One commenter objected to the omission of the phrase "or interest in such property" from the definition of "facility." The term "facility," as used in this regulation, refers to structures, and does not include intangible property rights. The definition, therefore has no effect on the scope of coverage of programs, including those conducted in facilities not included in the definition. The phrase has been omitted because the requirement that facilities be accessible would be a logical absurdity if applied to a lease, life estate, mortgage, or other intangible property interest. The regulation applies to all programs and activities conducted by the Agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the Agency. The term "facility" is used in §§ 136.149, 136.150, and 136.170(d).

"Individual with handicaps." The definition of "individual with handicaps" is identical to the definition of "handicapped person" appearing in the section 504 coordination regulation for federally assisted programs. See 28 CFR 41.31. Although section 103(d) of the Rehabilitation Act Amendments of 1986 changed the statutory term "handicapped individual" to "individual with handicaps," the legislative history of this amendment indicates that no substantive change was intended. Thus,

although the term has been changed in this regulation to be consistent with the statute as amended, the definition is unchanged. In particular, although the term as revised refers to "handicaps" in the plural, it does not exclude persons who have only one handicap.

"Qualified individual with handicaps." The definition of "qualified individual with handicaps" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs. See 28 CFR 41.32.

Paragraph (1) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified individual with handicaps" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified individual with handicaps is one who can achieve the purpose of the program without modifications in the program that the Agency can demonstrate would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Davis*. In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

SBA incorporated the Court's language in the definition of "qualified individual with handicaps" in order to make clear that such a person must be able to participate in the program offered by the Agency. The Agency is required to make modifications in order to enable an applicant with handicaps to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could

benefit or obtain results from some other program that the Agency does not offer. Although the revised definition allows exclusion of some individuals with handicaps from some programs, it requires that an individual with handicaps who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

The definition of "qualified individual with handicaps" has been revised to make it clear that the Agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the Agency must follow the procedures established in §§ 136.150(a)(2) and 136.160(d), which are discussed below, for demonstrating that an action would result in undue financial and administrative burdens. That is, the decision must be made by the Administrator or his or her Deputy in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the Administrator determines that an action would result in a fundamental alteration, the Agency must consider options that would enable the individual with handicaps to achieve the purpose of the program but would not result in such an alteration.

For programs or services that do not fall under paragraph (1), paragraph (2) of the definition adopts the existing definition of "qualified handicapped person" with respect to services in the coordination regulation for programs receiving Federal financial assistance. See 28 CFR 41.32(b). Under this definition, a qualified individual with handicaps is an individual with handicaps who meets the essential eligibility requirements for participation in the program or activity.

Paragraph (3) explains that a "qualified individual with handicaps" is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 136.140. Nothing in this part changes existing regulations applicable to employment.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the Agency and not to programs or activities to which it provides Federal financial assistance.

Section 136.110 Self-evaluation.

The Agency shall conduct a self-evaluation of its compliance with Section 504 within one year of the effective date of this regulation. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance. See 28 CFR 41.5(b)(2). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with individuals with handicaps that promotes both effective and efficient implementation of section 504.

This final rule uses the same provision adopted by the Department of Justice in its final rule implementing section 504 for its federally conducted programs. 28 CFR 39.110. The Department of Justice determined that this regulatory language was appropriate after it had analyzed the Federal Advisory Committee Act, 5 U.S.C. app., Executive Order 12024, and 41 CFR Part 101-6, the regulation of the General Services Administration implementing the Act.

This final rule provides that the Agency shall provide an opportunity for interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self-evaluation process and development of transition plans by submitting comments (both oral and written).

Section 136.111 Notice.

Section 136.111 requires the Agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the Agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section 136.111 is, in fact, a broader and more detailed version of the proposed rule's requirement (at § 136.160(d) in the NPRM) that the Agency provide individuals with handicaps with information concerning their rights. Because § 136.111 encompasses the requirements in § 136.160(d) of the NPRM, that later paragraph has been deleted as duplicative from the final rule, and § 136.160(e) of the NPRM has been redesignated as § 136.160(d).

Section 136.130 General prohibitions against discrimination.

Section 136.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance. See 28 CFR 41.51. This regulatory provision attracted relatively few public comments and has not been changed from the proposed rule, except for editorial changes to paragraph (c).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 136.130 establish the general principles for analyzing whether any particular action of the Agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. If the Agency violates a provision in any of the subsequent sections, it will also violate one of the general prohibitions found in § 136.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of individuals with handicaps. The Agency may not refuse to provide an individual with handicaps with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (e.g., epileptics, persons with impaired hearing or vision, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question.

In addition, section 504 prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(3), therefore, requires that the opportunity to participate or benefit afforded to an individual with handicaps be as effective as that afforded to others. The later sections on program accessibility, §§ 136.149-136.151, and communications, § 136.160, are specific applications of this principle.

Despite the mandate of paragraph (i) that the Agency administer its programs and activities in the most integrated setting appropriate to the needs of

qualified individuals with handicaps, paragraph (b)(4), in conjunction with paragraph (i), permits the Agency to develop separate or different aids, benefits, or services when necessary to provide individuals with handicaps with an equal opportunity to participate in or benefit from the Agency's programs or activities. Paragraph (b)(4) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (c) provides that a qualified individual with handicaps still has the right to choose to participate in the program that is not designed to accommodate individuals with handicaps.

Paragraph (b)(5) prohibits the Agency from denying a qualified individual with handicaps the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(6) prohibits the Agency from limiting a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (d) prohibits the Agency from utilizing criteria or methods of administration that deny individuals with handicaps access to the Agency's programs or activities. The phrase "criteria or methods of administration" refers to official written Agency policies and to the actual practices of the Agency. This paragraph prohibits both blatantly exclusionary policies and practices and nonessential policies and practices that are neutral on their face, but deny individuals with handicaps an effective opportunity to participate.

Paragraph (e) specifically applies the prohibition enunciated in § 136.130(d) to the process of selecting sites for construction of new facilities or selecting existing facilities to be used by the Agency. Paragraph (e) does not apply to construction of additional buildings at an existing site.

Paragraph (f) prohibits the Agency, in the selection of procurement contractors, from using criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

Paragraph (g) prohibits the Agency from discriminating against qualified individuals with handicaps on the basis of handicap in the granting of licenses or certification. A person is a "qualified individual with handicaps" with respect to licensing or certification, if he or she

can meet the essential eligibility requirements for receiving the license or certification. See § 136.103.

In addition, the Agency may not establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. For example, the Agency must comply with this requirement when establishing safety standards for the operation of licensees. In that case the Agency must ensure that standards that it promulgates do not discriminate against the employment of qualified individuals with handicaps in an impermissible manner.

Paragraph (g) does not extend section 504 directly to the programs or activities of licensees or certified entities themselves. The programs or activities of Federal licensees or certified entities are not themselves federally conducted programs or activities nor are they programs or activities receiving Federal financial assistance merely by virtue of the Federal license or certification. However, as noted above, section 504 may affect the content of the rules established by the Agency for the operation of the programs or activity of the licensee or certified entity, and thereby indirectly affect limited aspects of their operations.

Some commenters argued that the regulations should extend to the activities of licensees or certified entities, citing *Community Television of Southern California v. Gottfried*, 459 U.S. 498 (1983). In that case, the Court held that section 504 as applied to federally assisted programs did not require the Federal Communications Commission to prohibit discrimination on the basis of handicap by licensed broadcasters, but that "the policies underlying the Communications Act" might authorize the Commission to issue a regulation governing such discrimination. The Court did not, however, indicate that section 504 itself could serve as the source of such regulatory authority.

The Court has held that "the use of the words 'public interest' in a regulatory statute is not a broad license to promote the general public welfare. Rather the words take meaning from the purposes of the regulatory legislation." *National Association for the Advancement of Colored People v. Federal Power Commission*, 425 U.S. 662, 669 (1976). Section 504 does not of itself extend an agency's regulatory authority to the activities of licensees or certified entities.

Some commenters objected to the omission of a paragraph from the

regulations for Federally assisted programs that prohibits a recipient from providing significant assistance to an organization that discriminates. To the extent that assistance from the Agency would provide significant support to an organization, it would constitute Federal financial assistance, and the organization, as a recipient of such assistance, would be covered by the Agency's section 504 regulation for federally assisted programs. The regulatory "significant assistance" provision, however, would be inappropriate in a regulation applying only to federally conducted programs or activities.

Paragraph (h) provides that programs conducted pursuant to Federal statute or Executive Order that are designed to benefit only individuals with handicaps or a given class of individuals with handicaps may be limited to those individuals with handicaps.

Paragraph (i), discussed above, provides that the Agency must administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps, i.e., in a setting that enables individuals with handicaps to interact with individuals without handicaps to the fullest extent possible.

Section 136.140 Employment

Section 136.140 prohibits discrimination on the basis of handicap in employment by the Agency. One commenter felt that the treatment of employment was not sufficiently comprehensive and wanted this section expanded.

Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies. *Gardner v. Morris*, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith v. United States Postal Service*, 742 F.2d 257, 259-260 (6th Cir. 1984); *Prewitt v. United States Postal Service*, 662 F.2d 292, 302-04 (5th Cir. 1981). *Contra McGuinness v. United States Postal Service*, 744 F.2d 1318, 1320-21 (7th Cir. 1984); *Boyd v. United States Postal Service*, 752 F.2d 410, 413-14 (9th Cir. 1985).

Courts uniformly have held that in order to give effect to section 504 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Smith*, 742 F.2d at 262; *Prewitt*, 662 F.2d at 304. Accordingly, § 136.140 of this rule adopts the definitions, requirements, and procedures of section 501 as established in regulations of the Equal Employment

Opportunity Commission (EEOC) at 29 CFR Part 1613. In addition to this section, § 136.170(b) specifies that SBA will use the existing EEOC procedures to resolve allegations of employment discrimination.

The final rule has not been changed, except that a reference to the Equal Employment Opportunity Commission has been added. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, 1978 Comp. p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap. While this rule could define terms with respect to employment and enumerate what practices are covered and what requirements apply, the agency has adopted EEOC's recommendation that to avoid duplicative, competing, or conflicting standards with respect to Federal employment, reference in these regulations to the government-wide EEOC rules is sufficient. The class of Federal employees and applicants for employment covered by section 504 is identical to or subsumed within that covered by section 501. To apply different or lesser standards to persons alleging violations of section 504 could lead unnecessarily to confusion in the enforcement of the Rehabilitation Act with respect to Federal employment.

Section 136.149 Program accessibility: Discrimination prohibited.

Section 136.149 states the general nondiscrimination principle underlying the program accessibility requirements of §§ 136.150 and 136.151. No comments were received concerning this section.

Section 136.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for program or activities receiving Federal financial assistance, 28 CFR 41.57, with certain modifications. Thus, § 136.150 requires that each Agency program or activity, when viewed in its entirety, be readily accessible to and usable by individuals with handicaps. The regulation also makes clear that the Agency is not required to make each of its existing facilities accessible. § 136.150(a)(1). However, § 136.150, unlike 28 CFR 41.57, places explicit limits on the Agency's obligation to ensure program accessibility. § 136.150(a)(2). All commenters sought the deletion of the "undue financial and administrative

burdens" language from the regulation. The "undue financial and administrative burdens" language (found at § 136.150(a)(2) and 136.160(d) of the final rule) was based on the Supreme Court's *Davis* holding that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. See, e.g., *Dopico v. Goldschmidt*, *supra*; *American Public Transit Association v. Lewis* (APTA), *supra*.

Paragraphs (a)(2) and 136.160(d) of the final rule are also supported by the Supreme Court's decision in *Alexander v. Choate*, 419 U.S. 287 (1985). *Alexander* involved a challenge to the State of Tennessee's reduction of inpatient hospital care coverage under Medicaid from 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on handicapped persons. The Court assumed without deciding that section 504 reaches at least some conduct that has an unjustifiable disparate impact on handicapped people, but held that the reduction was not "the sort of disparate impact" discrimination that might be prohibited by section 504 or its implementing regulation. *Id.* at 299.

Relying on *Davis*, the Court said that section 504 guarantees qualified handicapped persons "meaningful access to the benefit that the grantee offers," *id.* at 301, and that "reasonable adjustments in the nature of the benefit being offered must at times be made to assure meaningful access." *Id.* at n. 21 (emphasis added). However, section 504 does not require "changes," "adjustments," or "modifications" to existing programs that would be "substantial" * * * or that would constitute "fundamental alterations(s) in the nature of a program." *Id.* at n. 20 (citations omitted).

Alexander supports the position, based on *Davis* and the earlier, lower court decisions, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. Thus the failure to include such an "undue burdens"

provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation. This provision is therefore unchanged from the proposed rule.

Some commenters asserted that the holding in *Davis* was that the plaintiff was not a qualified handicapped person and that the subsequent reference to "undue financial and administrative burdens" was mere *dicta*. This view overlooks the interpretations of *Davis* provided by the Federal circuit court cases mentioned above. The APTA and *Dopico* decisions make it clear that financial burdens can limit the obligations to comply with section 504. See also *New Mexico Association for Retarded Citizens v. New Mexico*, 678 F.2d 847 (10th Cir. 1982). In addition, the Courts in *Alexander* held that the "administrative costs" of subjecting any action affecting Medicaid recipients to a detailed analysis of its effects on handicapped people "would be well beyond the accommodations that are required under *Davis*." (409 U.S. at 308).

One comment included a lengthy analysis opposing the undue burdens defense. This comment was premised on the assumption that the proposed regulation was substantively inconsistent with the regulations for federally assisted programs. This assumption is incorrect. Judicial interpretations have established that neither section 504 nor the regulations for federally assisted programs establish an unlimited obligation to modify programs or activities to accommodate individuals with handicaps.

This comment also argued that APTA is no longer good law, in view of the Supreme Court's decision in *Consolidated Rail Corp. v. Darrone*, 465 U.S. 624 (1984) (*Conrail*), in which the Court said that Congress intended through the 1978 amendments to the statute, to codify the HEW regulation. Other commenters also argued that *Conrail* prohibits departures from the language of the federally assisted regulation. The *Conrail* decision addressed only the question of employment coverage under the statute and cannot be read to mean that Congress "codified" other parts of the regulation. Furthermore, the undue burdens defense is not inconsistent with the HEW regulation; in fact, the employment provisions of the HEW regulation—those addressed in *Conrail*—do include an "undue hardship" defense. This position is confirmed by the Supreme Court's decision in *Alexander*. There the Court referred to its previous recognition in

Conrail of the regulation as "an important source of guidance on the meaning of section 504." *Alexander*, 469 U.S. at 304, n.24, and at the same time, as discussed above, emphasized that section 504 does not mandate extensive costs and administrative burdens.

This paragraph, however, does not establish an absolute defense; it does not relieve the Agency of all obligations to individuals with handicaps. Although the Agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that individuals with handicaps receive the benefits and services of the federally conducted program or activity.

In developing its final rule, SBA was guided by six principles in its application of the "fundamental alteration" and "undue financial and administrative burdens" language. These principles are as follows: (1) Because of the extensive resources and capabilities that could properly be drawn upon for section 504 purposes, it is acknowledged that, rarely will making a program accessible result in undue burdens; (2) the burden of proving that the accommodation request will result in a fundamental alteration or undue burdens has been placed squarely on the Agency, not on the individual with handicaps; (3) in determining whether financial and administrative burdens are undue, the Agency is to consider all agency resources available for use in the funding and operation of the conducted programs; (4) the "fundamental alteration"/"undue burdens" decision is to be made by the Administrator or Deputy Administrator and must be accompanied by a written statement of reasons for reaching such a conclusion; (5) if a disabled person disagrees with the Administrator's finding, he or she can file a complaint under the complaint procedures established under § 136.170; (6) even if there is a determination that making a program accessible will fundamentally alter the nature of the program or will result in undue financial and administrative burdens, the Agency must still take action that will open participation in the Agency's program to individuals with handicaps and ensure that qualified individuals with handicaps receive the benefits and services of the program.

Some commenters objected to the provision that the "undue burdens" decision would be based on consideration of "all agency resources available for use in the funding and

operation of the conducted program," arguing that it should be based on the resources of the Agency as a whole. The Agency believes that its entire budget is an inappropriate touchstone for making determinations as to undue financial and administrative burdens. Parts of the Agency's budget can be earmarked for specific purposes and are simply not available for use in making the Agency's programs accessible to individuals with handicaps. It is expected that, only on very rare occasions, will the Agency be faced with "undue burdens" in meeting the program accessibility or communications requirements of this regulation.

One commenter said that the term "undue hardship" used in regulations for federally assisted programs is more specific and less discriminatory than the term "undue burdens." The term "undue hardship" is a term of art used in connection with employment. The term "undue burdens" is taken from the Supreme Court's opinion in *Davis* and is appropriately included in this regulation.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the Agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of individuals with handicaps. Structural changes in existing facilities are required only when there is no other feasible way to make the Agency's program accessible. The Agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or by making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the Agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section 136.151 Program accessibility: New Construction and alterations.

Overlapping coverage exists with respect to new construction and alterations under section 504, and the Architectural Barriers Act of 1968, as

amended, 42 U.S.C. 4151-4157. Section 136.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the Agency shall be designed, constructed, or altered to be readily accessible to and usable by individuals with handicaps in accordance with 41 CFR 101-19.600 to 101-19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151-4157.

It is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the Agency after the effective date of this regulation are not required by the regulation to meet accessibility standards simply by virtue of being leased. They are subject, however, to the program accessibility standard for existing facilities in § 136.150. To the extent the buildings are newly constructed or altered, they must also meet the new construction and alteration requirements of § 136.151.

Federal practice under section 504 has always treated newly leased buildings as subject to the existing facility program accessibility standard. Unlike the construction of new buildings where architectural barriers can be avoided at little or no cost, the application of new construction standards to an existing building being leased raises the same prospect of retrofitting buildings as the use of an existing Federal facility, and the Agency believes the same program accessibility standard should apply to both owned and leased buildings.

In *Rose v. United States Postal Service*, 774 F.2d 1355 (9th Cir. 1985), the Ninth Circuit held that the Architectural Barriers Act requires accessibility at the time of lease. The *Rose* court did not address the issue of whether section 504 likewise requires accessibility as a condition of lease, and the case was remanded to the District Court for, among other things, consideration of that issue. The Agency may provide more specific guidance on section 504 requirements for leased buildings after the litigation is completed.

Section 136.160 Communications.

Section 136.160 requires the Agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps include procedures for

determining when auxiliary aids are necessary under § 136.160(a)(1) to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits, services and advantages of, the agency's program or activity as those afforded to others. They also include an opportunity for individuals with handicaps to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the Agency, § 136.160(a)(1)(i). The Agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 136.160(d). That paragraph limits the obligation of the Agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it. See *supra* preamble discussion of § 136.150(a)(2). Unless not required by § 136.160(d), the Agency shall provide auxiliary aids at no cost to the individual with handicaps.

One commenter argued that the communications section should require that communications for individuals with handicaps be "equal" to those for individuals without handicaps, not merely "effective." The regulation requires the Agency to provide auxiliary aids to ensure that individuals with handicaps have "an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the Agency." Where the form of communication is different for individuals with handicaps than for individuals without handicaps (e.g., oral instead of written for blind people, sign language instead of speech for deaf people) the effectiveness of the communication is the only appropriate measurement of equality of treatment.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly when the information being communicated is complex or exchanged for a lengthy period of time (e.g., a meeting) or where the hearing-impaired applicant or participant is not skilled in spoken or written language. In these cases, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the Agency intends to inform the public of (1) the communications services it offers to afford individuals with handicaps an equal opportunity to participate in or benefit from its

programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the Agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

In connection with its obligation under section 504 to ensure effective communication, the Agency has issued a policy statement on the provision of reading and interpretive services to individuals with handicaps in SBA programs. (See Memorandum from the Acting Deputy Associate Administrator for Management Assistance to Regional Administrators and District Directors concerning Interpreters for the Deaf, dated October 25, 1982.) When deaf or blind persons seek counseling services, the SBA employee is to use individual judgment (within the provision of § 136.160) in considering the use of an interpreter. It may not be necessary to use an interpreter if the client has one or two questions that could be answered through written communications. On the other hand, if extensive counseling appears to be necessary, thus requiring the use of an interpreter, an appointment should be set up with the client for a later time. With respect to training programs, all SBA offices should advertise through their traditional media that interpreter service will be provided at specified workshops and classes upon request.

The Agency shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the Agency. Auxiliary aids in these proceedings must be afforded where necessary to ensure effective communication at the proceedings. When sign language interpreters are necessary, the Agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the Agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature. § 136.160(a)(1)(ii). For example, the Agency need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the Agency to provide wheelchairs to persons with mobility impairments.

Some comments suggested that the definition of auxiliary aids should include attendant services that may be needed to aid disabled persons to travel to meetings, and in some cases to achieve program accessibility. This recommendation was not adopted because the services of an attendant for a disabled person are viewed as being

generally personal in nature and not directly related to the federally conducted program. To the extent that the services of an attendant are not directly related to a federally conducted program or activity, it would be inappropriate to require them at Federal expense.

However, a different conclusion might be reached for Federal employees or other persons traveling for the Agency. Where a disabled person who is unable to travel without an attendant is required to perform official travel, the traveling expenses of an attendant, including per diem and transportation expenses, may be paid by the Agency. See 5 U.S.C. 3102(d) (1982).

Paragraph (b) requires the Agency to provide information to individuals with handicaps concerning accessible services, activities, and facilities.

Paragraph (c) requires the Agency to post signs at inaccessible facilities that direct users to locations with information about accessible facilities.

Paragraph (d) provides that the Agency is not required to take any action that would result in a fundamental alteration in the nature of a program or activity or that would impose undue financial or administrative burdens. The Agency bears the burden of proving that a contemplated action would result in such an alteration or burden. The decision must be made by the Administrator or Deputy Administrator and must be accompanied by a written rationale. The discussion of § 136.150(a), Program accessibility: Existing facilities, regarding the determination of undue financial and administrative burdens, also applies to this section and should be referred to for a complete understanding of the Agency's obligation to comply with § 136.160.

Section 136.170 Compliance procedures

Section 136.170 establishes a detailed complaint processing and review procedure for resolving allegations of discrimination in violation of section 504 in the Small Business Administration's programs and activities. In response to a comment, this section is being changed to conform to the substantive requirements of § 39.170 of the DOJ regulation, 28 CFR 39.170, with respect to the filing, processing and investigation of all allegations of discrimination under this part. It designates the Office of Hearings and Appeals of SBA as being responsible for conducting any hearings requested under this regulation, and provides that such hearings will be conducted

pursuant to the procedures contained in 13 CFR Part 134.

Paragraph (a) specifies that paragraphs (c) through (f) of this section establish the procedures for processing complaints other than employment complaints.

Paragraph (b) provides that the Agency will process employment complaints according to procedures established in existing regulations of the EEOC, 29 CFR Part 1613, pursuant to section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791.

Paragraph (c) provides that any person who believes that he or she has been discriminated against based on his or her handicap may file a complaint within 180 days of the date of the alleged discrimination. Complaints also may be filed by an authorized representative of an individual complainant, or, in the case of alleged class discrimination, by a member of the class or a representative of any member of the class.

Complaints may be mailed or delivered to the Chief, Office of Civil Rights Compliance (OCRC) within 180 days of the occurrence of the alleged discrimination. Complaints under this Part received by any other Agency official shall be forwarded immediately to the Chief, OCRC. The Chief, OCRC, may extend the 180 day time limit when the complainant shows good cause. Good cause could be found if, for example, (1) the complainant mistakenly filed with the wrong agency and was not informed of the mistake within the 180 days; or (2) the complainant could not reasonably be expected to know of the act or event said to be discriminatory within 180 days. § 136.170(c) (2) and (3).

Paragraph (d) requires the Agency to send to the Architectural and Transportation Barriers Compliance Board a copy of any complaint alleging that a building or facility subject to the Architectural Barriers Act was designed, constructed, or altered in a manner that does not provide ready access to and use by individuals with handicaps.

Under paragraph (e)(1), the Chief, OCRC, is required to accept all complete complaints over which the Agency has jurisdiction. If the Chief, OCRC determines that the Agency does not have jurisdiction over a complaint, pursuant to paragraph (e)(3) he or she shall promptly notify the complainant and make reasonable efforts to transfer the complaint to the appropriate entity of the Federal government. The complainant will be advised of the Agency to which the case has been transferred. If a complaint is not complete when it is filed, paragraph

(e)(2) requires the Chief, OCRC to notify the complainant within 30 days that additional information is needed. The complainant must furnish the necessary information within 30 days of receipt of the notice, or the complaint will be dismissed without prejudice. Filing an incomplete complaint within 180 days from the date of the alleged discrimination satisfies the requirements of paragraph (c)(2), but the time frames governing the Chief, OCRC's other duties to process the complaint do not begin to run until he or she has received a complete complaint. See § 136.170(f)(1) and § 136.170(g).

Within 180 days of receipt of the complete complaint, the Chief, OCRC, is required to investigate the complaint, attempt an informal resolution, and if informal resolution is not achieved, issue a letter of findings. § 136.170(f)(1). Agency employees are required to participate in investigations under this Part and may be called upon to do so during business hours. § 136.170(f)(2). The Chief, OCRC, shall furnish copies of the investigative report to the complainant and the respondent, and offer an opportunity for informal resolution. § 136.170(f)(3). The terms of the agreement of any informally resolved complaint shall be reduced to writing, with copies given to the complainant and the respondent and a copy placed in the complaint file. The written agreement may include a finding on the allegation of discrimination and shall describe the corrective action agreed upon. § 136.170(f)(4).

Paragraph (g) requires that the Chief, OCRC's letter of findings be sent to the complainant and respondent, and that it contain findings of fact and conclusions of law, the relief granted if discrimination is found, and notice of the right to appeal and request a hearing. This paragraph also explains that the letter of findings will become the final Agency decision if no appeal is taken by either party and that the Chief, OCRC, will so certify at the close of the time allowed for initiating an appeal under paragraph (h)(1) of this part.

The complainant or respondent may appeal the determination issued by the Chief, OCRC, with or without a request for hearing, to the Director, Office of Equal Employment Opportunity and Compliance (OEEOC), within 30 days of receipt of the letter of findings. § 136.170(h)(1). If a notice of appeal is filed without a request for a hearing, any other party to the proceeding may request a hearing within the 30 days allowed for filing a notice of appeal or within 10 days of receipt of a copy of the notice of appeal, whichever is later.

§ 136.170(h)(2). If the Chief, OCRC, determines that the notice of appeal is untimely, the party may file an appeal of that decision with the Director, OEEOC. § 136.170(h)(3). Any request for a hearing will be construed as a request for an oral hearing. The complainant's failure to file a timely motion requesting that the matter be scheduled for a hearing, shall constitute a waiver of the right to an oral hearing, but shall not prevent the submission of written information and argument for the record. § 136.170(h)(4).

Paragraph (i) requires the Chief, OCRC, to accept and process any timely appeal. § 136.170(h)(i). If a notice of appeal is filed but no party requests a hearing, the case will be transmitted to the Director, OEEOC, for action. § 136.170(i)(1). If a notice of appeal is filed and a party makes a timely request for hearing, the case will be transmitted to the Office of Hearing and Appeals for assignment to an administrative judge who will conduct the hearing in accordance with the procedures contained in 13 CFR Part 134. § 136.170(i)(2).

Proceedings under 13 CFR Part 134 are intended to produce a reliable and complete record in all cases. All pleadings must be submitted to all parties to the proceeding, including those granted intervenor status, to provide all parties the maximum feasible opportunity to participate in the development of the record. The public will be granted access to all information upon which a decision is based with the exception of that information which is exempt from mandatory disclosure under the Freedom of Information Act or protected by the Privacy Act. The public will also be permitted to attend any hearings conducted, except those proceedings that are closed by the administrative judge for good cause shown. See 13 CFR Part 134 for further explanation of the procedures to be applied in hearings conducted under this part.

Under paragraph (j)(1), if no request for a hearing was made by any party, the Director, OEEOC, shall issue the final Agency decision within 60 days of receipt of the appeal from the Chief, OCRC, or of any response to the notice of appeal by any other party. Where a party requests a hearing, however, the administrative judge shall issue an initial decision of the Agency based on the information in the investigative and hearing record. The initial decision shall set forth the findings, remedial action required, and reasons for the decision, and shall be transmitted by the administrative judge to the parties to the

proceeding and to the Director, OEEOC, for review. The initial decision becomes the final Agency decision after 30 days unless a party files a petition for review or the Director, OEEOC, issues an order stating his or her decision to review the initial decision. § 136.170(j)(2). If either event occurs, other parties to the proceeding shall be afforded an opportunity to comment. The Director, OEEOC, shall make the final Agency decision both where a petition for review has been filed and where he or she issues an order stating his or her decision to review the initial decision. The Director, OEEOC's decision shall be based on a review of the entire file, including the investigation report, letter of findings, the hearing record, and the initial decision of the administrative judge. The decision shall be made within 60 days of receipt of the petition for review, the order, or any responses to such petition or order, whichever is later. The Director, OEEOC, will recommend appropriate remedial action if discrimination is found. § 136.170(j)(3). Corrective actions shall be taken promptly, and the Chief, OCRC, shall monitor such corrective actions to ensure compliance with the final decision.

List of Subjects in 13 CFR Part 136

Blind, Buildings, Civil Rights, Employment, Equal employment opportunity, Federal buildings and facilities, Government employees, Handicapped.

Accordingly, pursuant to section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), SBA hereby adds Part 136 to Title 13 of the Code of Federal Regulations to read as follows:

PART 136—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE SMALL BUSINESS ADMINISTRATION

Sec.

- 136.101 Purpose.
- 136.102 Application.
- 136.103 Definitions.
- 136.104-136.109 [Reserved]
- 136.110 Self-evaluation.
- 136.111 Notice.
- 136.112-136.129 [Reserved]
- 136.130 General prohibitions against discrimination.
- 136.131-136.139 [Reserved]
- 136.140 Employment.
- 136.141-136.148 [Reserved]
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136.170 Compliance procedures.

136.171-136.999 [Reserved]

Authority: 29 U.S.C. 794.

§ 136.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 136.102 Application.

This part applies to all programs or activities conducted by the Small Business Administration except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

§ 136.103 Definitions.

For purposes of this part, the term—
"Agency" means the Small Business Administration.

"Assistant Attorney General." "Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the Agency's alleged discriminatory actions in sufficient detail to inform the Agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if

possible) the alleged victims of discrimination.

"Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Individual with handicaps" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the Agency as having such an impairment.

"Qualified individual with handicaps" means—

(1) With respect to any Agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the Agency can demonstrate would result in a fundamental alteration in its nature.

(2) With respect to any other program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(3) For purposes of employment, a person who qualifies under the definition contained at 29 CFR 1613.702(f), which is made applicable to this Part by § 136.140.

"Respondent" means the organizational unit in which a complainant alleges that discrimination occurred.

"Section 504" means section 504 of the Rehabilitation Act of 1973 ((Pub. L. 93-112, 87 Stat. 394) (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955) and the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810). As used in this Part, section 504 applies only to programs or activities conducted by SBA and not to activities of recipients of assistance from SBA.

§§ 136.104-136.109 [Reserved]**§ 136.110 Self-evaluation.**

(a) The Agency shall, by July 17, 1989, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the Agency shall proceed to make the necessary modifications.

(b) The Agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The Agency shall, for at least three years following the self-evaluation, maintain on file and make available for public inspection:

- (1) A description of areas examined and any problems identified; and
- (2) A description of any modifications made.

§ 136.111 Notice.

The Agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the Agency, and make such information available to them in such manner as the Administrator finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this part.

§§ 136.112-136.129 [Reserved]

§ 136.130 General prohibition against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Agency.

(b) The Agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(1) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(4) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(5) Deny a qualified individual with handicaps the opportunity to participate as a member of planning, voluntary (such as SCORE or Ace) or advisory boards; or

(6) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by

others receiving the aid, benefit, or service.

(c) The Agency shall permit a qualified individual with handicaps the opportunity to participate in any of the Agency's programs or activities, despite the existence of permissibly separate or different programs or activities especially designed to accommodate qualified individuals with handicaps.

(d) The Agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose of effect of which would—

(1) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(2) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(e) The Agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would:

(1) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the Agency; or

(2) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(f) The Agency, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(g) The Agency may not administer a licensing or certification program in a manner that subjects qualified individuals with handicaps to discrimination on the basis of handicap, nor may the Agency establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the Agency are not, themselves, covered by this part.

(h) The exclusion of individuals without handicaps from the benefits of a program limited by Federal statute or Executive Order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive Order to a different class of individuals with handicaps is not prohibited by this part.

(i) The Agency shall administer programs and activities in the most integrated setting appropriate to the

needs of qualified individuals with handicaps.

§§ 136.131-136.139 [Reserved]

§ 136.140 Employment.

(a) No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program, or activity conducted by the Agency.

(b) The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) as established by the EEOC in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§§ 136.141-136.148 [Reserved]

§ 136.149 Program accessibility; Discrimination prohibited.

Except as otherwise provided in § 136.150, no qualified individual with handicaps shall, because the Agency's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Agency.

§ 136.150 Program accessibility: Existing facilities.

(a) *General.* The Agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(1) Necessarily require the Agency to make each of its existing facilities accessible to and usable by individuals with handicaps; or

(2) Require the Agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where Agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Agency has the burden of proving that compliance with § 136.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Administrator or Deputy Administrator after considering all Agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that

conclusion. The Administrator or Deputy Administrator's decision shall be made within 30 days of the initial decision by Agency personnel that an action would result in such an alteration or burdens. If an action would result in such an alteration or such burdens, the Agency shall take any other action that would not result in such an alteration or such burdens but would, nevertheless, ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods.* The Agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. The Agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The Agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Agency shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.

(c) *Time period for compliance.* The Agency shall comply with the obligations established under this section by September 13, 1988, except that where structural changes in facilities are undertaken, such changes shall be made by July 15, 1991, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the Agency shall develop, by January 16, 1989, a transition plan setting forth the steps necessary to complete such changes. The Agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the Agency's facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

§ 136.151 Program accessibility; New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the Agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as established in 41 CFR 101-19.600-101-19.607, apply to buildings covered by this section.

§§ 136.152-136.159 [Reserved]

§ 136.160 Communications.

(a) The Agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The Agency shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the Agency.

(i) In determining what type of auxiliary aid is necessary, the Agency shall give primary consideration to the requests of the individual with handicaps.

(ii) The Agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the Agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.

(b) The Agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The Agency shall provide a sign at each primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the Agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where Agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Agency has the burden of proving that compliance with § 136.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Administrator or Deputy Administrator after considering all Agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. The Administrator or Deputy Administrator's decision shall be made within 30 days of the initial decision by Agency personnel that an action would result in such an alteration or burdens. If an action required to comply with this section would result in such as alteration or such burdens, the Agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§§ 135.161-136.169 [Reserved]

§ 136.170 Compliance procedures.

(a) *Applicability.* Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the Agency.

(b) *Employment complaints.* The Agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by EEOC in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) *Filing a complaint.*—(1) *Who may file.* Any person who believes that he or she has been subjected to discrimination

prohibited by this part may file a complaint. An authorized representative of such person may file a complaint on his or her behalf. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by this part and who is a member of that class, or the authorized representative of a member of that class, may file a complaint.

(2) *Confidentiality.* The Chief, Office of Civil Rights Compliance (OCRC), shall hold in confidence the identity of any person submitting a complaint, unless the person submits written authorization otherwise, except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or proceeding under this part, or to cooperate with the Office of Inspector General in the performance of its responsibilities under the Inspector General Act of 1978, as amended.

(3) *When to file.* Complaints shall be filed within 180 days of the alleged act of discrimination, except when this deadline is extended by the Chief, OCRC, for good cause shown. For purposes of determining when a complaint is timely filed under this paragraph, a complaint mailed to the Agency shall be deemed filed on the date it is postmarked. Any other complaint shall be deemed filed on the date it is received by the Agency.

(4) *How to file.* Complaints may be delivered or mailed to the Chief, OCRC, Small Business Administration, 1441 L Street NW.—Room 501, Washington, DC 20416. Any other SBA official receiving a complaint under this part shall forward such complaint immediately to the Chief, OCRC.

(d) *Notification to the Architectural and Transportation Barriers Compliance Board.* The agency shall promptly send to the Architectural and Transportation Barriers Compliance Board a copy of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151-4157 is not readily accessible to and usable by individuals with handicaps.

(e) *Acceptance of complaint.* (1) The Chief, OCRC, shall accept a complete complaint that is filed in accordance with paragraph (c) of this section and over which the Agency has jurisdiction. The Chief, OCRC, shall notify the complainant and the respondent of receipt and acceptance of the complaint.

(2) If the Chief, OCRC, receives a complaint that is not complete, he or she shall notify the complainant, within 30 days of receipt of the incomplete complaint, that additional information is

needed. If the complainant fails to furnish the necessary information within 30 days of receipt of this notice, the Chief, OCRC, shall dismiss the complaint without prejudice.

(3) If the Chief, OCRC, receives a complaint over which the Agency does not have jurisdiction, he or she shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate Government entity.

(f) *Investigation/Conciliation.* (1) Within 180 days of the receipt of a complete complaint the Chief, OCRC, shall complete the investigation of the complaint and attempt informal resolution. If no informal resolution is achieved, the Chief, OCRC, shall issue a letter of findings.

(2) The Chief, OCRC, may require Agency employees to cooperate in the investigation and attempted resolution of complaints. Employees who are required to participate in any investigation under this section shall do so as part of their official duties and during regular duty hours.

(3) The Chief, OCRC, shall furnish the complainant and the respondent with a copy of the investigative report and provide the complainant and respondent with an opportunity for informal resolution of the complaint.

(4) If a complaint is resolved informally, the terms of the agreement shall be reduced to writing and made part of the complaint file, with a copy of the agreement provided to the complainant and respondent. The written agreement may include a finding on the issue of discrimination and shall describe any corrective action to which the complainant and respondent have agreed.

(g) *Letter of findings.* If an informal resolution of the complaint is not reached, the Chief, OCRC, shall, within 180 days of receipt of the complete complaint, notify the complainant, the respondent and the Director, Office of Equal Employment Opportunity and Compliance (OEEOC), of the results of the investigation in a letter sent by certified mail, return receipt requested, and containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found;

(3) A notice of the right of the complainant and respondent to appeal to the Director, OEEOC; and

(4) A notice of the right of the complainant and respondent to request a hearing.

The letter of findings becomes the final Agency decision if neither party files an appeal within the time

prescribed in paragraph (h)(1) of this section. The Chief, OCRC, shall certify that the letter of findings is the final Agency decision on the complaint at the expiration of that time.

(h) *Filing an appeal.* (1) Any notice of appeal to the Director, OEEOC, with or without a request for hearing, shall be filed by the complainant or the respondent in writing with the Chief, OCRC, within 30 days of receipt from him or her of the letter required by paragraph (g) of this section. The notice shall be accompanied by a certificate of service attesting that the party has served a copy of his or her notice of appeal on all other parties to the proceeding. The Director, OEEOC, may extend this time limit for good cause shown pursuant to the procedure in paragraph (h)(3) of this section.

(2) If a timely notice of appeal without a request for hearing is filed, any other party may file a written request for hearing within the time limit specified in paragraph (h)(1) of this section or within 10 days of his or her receipt of such notice of appeal, whichever is later.

(3) A party may appeal to the Director, OEEOC, from a decision of the Chief, OCRC, that an appeal is untimely. This appeal shall be filed with the Director, OEEOC, within 15 days of receipt of the decision from the Chief, OCRC.

(4) Any request for hearing will be construed as a request for an oral hearing. The complainant's failure to file a timely request for a hearing in accordance with this part shall constitute waiver of the right to a hearing, but shall not preclude his or her submitting written information and argument to the Director, OEEOC, in connection with his or her notice of appeal.

(i) *Acceptance of appeal.* The Chief, OCRC, shall accept and process any timely filed appeal.

(1) If a notice of appeal is filed but no party requests a hearing, the Chief, OCRC, shall promptly transmit the complaint file, the letter of findings and the notice of appeal to the Director, OEEOC.

(2) If a notice of appeal is filed and a party makes a timely request for a hearing, the Chief, OCRC, will transmit the notice of appeal, the request for hearing and the investigative file to the Office of Hearings and Appeals which office will assign the case to an administrative judge who will conduct a hearing in accordance with the procedures contained in 13 CFR Part 134.

(j) *Decision.* (1) Where no request for a hearing is made, the Director, OEEOC,

shall make the final Agency decision based on the contents of the complaint file, the letter of findings, the notice of appeal, and any responses to the notice of appeal filed by other parties. The decision shall be made within 60 days of receipt of the appeal or any response to the notice of appeal, whichever is applicable. If the Director, OEEOC, determines that he or she needs additional information from any party, he or she shall request the information and provide the other party or parties an opportunity to respond to that information. The Director, OEEOC, shall have 60 days from receipt of the additional information or responses to such additional information, whichever is later, to make the decision. The Director, OEEOC, shall transmit his or her decision in writing to the parties. The decision shall set forth the findings, remedial actions, and reasons for the decision.

(2) Where a request for a hearing has been made, the administrative judge shall issue an initial decision, in writing, based on the hearing record, composed of the proposed findings of fact, conclusions of law, and remedies, to the parties and to the Director, OEEOC, within 30 days after receipt of the hearing transcripts, or within 30 days after the conclusion of the hearing if no transcript is made. This time limit may be extended with the permission of the Director, OEEOC. The decision of the administrative judge shall be deemed to be the final decision of the Agency after 30 days, unless a party files a petition for review with the Director, OEEOC, pursuant to 13 CFR 134.34(a) or the Director, OEEOC, issues an order stating his or her decision to review the initial decision, pursuant to 13 CFR 134.34(b). See 13 CFR 134.32(b)(3).

(3) Where a petition for review is filed or a review is ordered by the Director, OEEOC, the Director, OEEOC, shall make the final decision of the Agency based on information in the complaint file, the letter of findings, the hearing record, the initial decision, the petition for review, and any responses to the petition or order. The decision shall be made within 60 days of receipt of the petition for review, the order, or any responses to such petition or order, whichever is later. If the Director, OEEOC, determines that he or she needs additional information from any party, he or she shall request the information and provide the other party or parties an opportunity to respond to that information. The Director, OEEOC, shall have 60 days from receipt of the additional information or responses to such additional information, whichever

is later, to make the decision. The Director, OEEOC, shall transmit his or her decision by letter to the parties. The decision shall set forth the findings, recommended remedial actions, and reasons for the decision. The decision shall adopt, reject, or modify the initial decision of the administrative judge. If the decision is to reject or modify the initial decision, the decision letter shall set forth in detail the specific reasons for the rejection or modification.

(4) Any respondent required to take action under the terms of the decision of the Agency shall do so promptly. The Chief, OCRC, may require periodic compliance reports specifying:

(i) The manner in which compliance with the provisions of the decision has been achieved;

(ii) The reasons any action required by the final decision has not been taken; and

(iii) The steps being taken to ensure full compliance.

(k) The time limit cited in paragraph (f) of this section may be extended with the permission of the Assistant Attorney General.

(l) The Agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

§§ 136.171—136.999 [Reserved]

James Abdnor,
Administrator.

Dated: February 8, 1988.

[FR Doc. 88-12042 Filed 5-27-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-ASW-10; Amdt. 39-5919]

Airworthiness Directives; Boeing Helicopter Company (Boeing Vertol; Vertol) Model 107-II and Kawasaki Heavy Industries, Ltd., Model KV107-II and KV107-IIA Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Boeing Helicopter Company Model 107-II and Kawasaki Heavy Industries, Ltd., Model KV107-II and KV107-IIA series helicopters imposing a 50-hour repetitive dye

penetrant inspection of the lug area of aft main rotor slider guides which have 1,200 or more hours' time in service. This AD is needed to prevent potential separation of the slider guide which could lead to loss of the aft main rotor shaft thrust bearing and subsequently, loss of the helicopter.

DATE: June 2, 1988.

Compliance: Compliance required within the next 10 hours' time in service after the effective date of this AD for parts with 1,200 or more hours' time in service, and every 50 hours thereafter.

ADDRESSES: The applicable service information may be obtained from Boeing Helicopter Company, Boeing Center, P.O. Box 16858, Philadelphia, Pennsylvania 19142. A copy of the documents is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph E. Chrastil, ANE-172, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone No. (516) 791-6221.

SUPPLEMENTARY INFORMATION: During a routine inspection conducted recently of an aft main rotor shaft slider guide with 2,463 hours' time in service, the two forward hold down lugs (four lugs total) were found cracked. Subsequently two other slider guides with 3,000 and 7,271 hours' time in service, were found cracked in the same area. These cracks were found on Boeing Helicopter Company Model 107-II and Kawasaki Heavy Industries, Ltd. Model KV-107 and KV-107-IIA series helicopters. The lug bores had been modified and split steel bushings installed in accordance with Boeing Vertol Service Bulletin No. 107-359, "Installation of Double Flange Steel Bushings in Aft Slider Guide Assembly Mounting Lugs," dated August 22, 1984. Previous lug bore modifications also had not corrected a cracking problem in this area. This AD requires an initial dye penetrant inspection of the two forward lug areas within 10 hours' time in service for slider guides with 1,200 or more hours' time in service on the effective date of this AD. Thereafter, repetitive inspections are required at an interval not to exceed 50 hours' time in service. It should be noted that the two forward lugs are more highly loaded than the two aft lugs, due to combined vertical and drag loads. The type designs for both the Boeing Vertol and the Kawasaki are the same. Since this condition is likely to exist or develop on other helicopters of the same

type design, an airworthiness directive is being issued which requires a repetitive inspection of the four lug hold-down areas of the aft main rotor slider guide.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Boeing Helicopter Company (Boeing Vertol; Vertol) and Kawasaki Heavy Industries, LTD: Applies to Boeing Helicopter Company Model 107-II and Kawasaki Model KV107-II and KV107-11A helicopters, certificated in any category (Airworthiness Docket 88-ASW-10).

Compliance is required as indicated, unless already accomplished.

To prevent possible hazards in flight associated with a cracked aft main rotor shaft slider guide, Part Number (P/N) 107R3574-1, accomplish the following:

(a) Within the next 10 hours' time in service from the effective date of this AD, or before the accumulation of 1,200 hours' time in service, whichever comes later, perform a dye penetrant inspection of the two forward lug areas of the aft main rotor shaft slider guide for cracks as follows:

(1) Gain access to the aft rotor shaft slider guide installation.

(2) Remove paint from slider guide lug areas typical in two places.

(3) Apply dye penetrant completely around top and side surfaces of each forward slider guide mounting lug. Allow a five to 15 minute dwell time, depending on ambient temperature.

(4) Remove excess penetrant and apply the developer. Allow a drying time of five to 15 minutes, depending on ambient temperature.

(5) Visually inspect the developed areas for cracks, paying particular attention to the side surfaces of each mounting lug. Positive crack indications are cause for rejection, and require removal of slider guide from the aircraft.

(6) Clean surfaces to remove penetrant and developer. Do not repaint cleaned surfaces.

(7) Close and secure cowlings.

Note.—Paragraph 2, "Accomplishment Instructions," Boeing Helicopter Co., Service Bulletin No. 107-370R1, dated September 21, 1987, constitutes an acceptable means of compliance for the inspection requirements of paragraphs (a) (1) through (7), above.

(b) After the initial inspection of paragraph (a), repeat the dye penetrant inspection at intervals not to exceed 50 hours' time in service from the last inspection.

(c) Remove cracked slider guides from service and replace with a serviceable part prior to further flight.

(d) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the compliance times specified in this AD.

(e) An alternate method of compliance which provides an equivalent level of safety may be used when approved by the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581.

(f) In accordance with FAR §§ 21.197 and 21.199, flight is permitted to a base where the requirements of this AD may be accomplished.

Copies of the applicable service bulletin may be obtained from Boeing Helicopter Company, Boeing Center, P.O. Box 16858, Philadelphia, Pennsylvania 19142. These documents

may be examined at the Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

This amendment becomes effective June 2, 1988.

Issued in Fort Worth, Texas, on April 29, 1988.

C.R. Melguin, Jr.,

Director, Southwest Region.

[FR Doc. 88-12001 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-ANE-18; Amdt. 39-5940]

Airworthiness Directives; Garrett Engine Division (hereinafter called "Garrett"), Allied-Signal Incorporated, Models TPE331-10, -10R, -10U, -10UA, -10UF, -10UG, -10UGR, -10UR, and -11U Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule and request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which reduces the low cycle fatigue life of certain second stage turbine rotors from 6,800 to 4,800 cycles. This amendment is needed to prevent the failure of the second stage turbine rotor due to low cycle fatigue cracking which has resulted in an uncontained second stage turbine rotor failure.

DATES: Effective—June 6, 1988.

Compliance: As required in the body of the AD.

Comments for inclusion in the docket must be received on or before July 6, 1988.

Incorporation by Reference: Approved by the Director of the Federal Register as of June 6, 1988.

ADDRESSES: Comments on the amendment may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 88-ANE-18, 12 New England Executive Park, Burlington, Massachusetts 01803

or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: "Docket Number 88-ANE-18".

Comments may be inspected at the New England Region, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable engine manufacturer's service bulletins (SB's) may be obtained from Garrett General Aviation Services Division, Distribution Center, 2340 East University, Phoenix, Arizona 85034; telephone (602) 225-2548.

A copy of the SB is contained in Rules Docket Number 88-ANE-18, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT:

Joseph Costa, Aerospace Engineer, Propulsion Branch, ANM-140L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION: The FAA has determined that a Garrett TPE331-10UF engine incurred an uncontained second stage turbine rotor failure due to crack growth from a bore initiation site induced by low cycle fatigue. Inspections of service-returned second stage turbine rotors and supplemental fatigue data analysis confirm that the initial service life limit is too high, and a reduction of the service life limit is therefore warranted.

Since this condition is likely to exist or develop in other engines with rotors of the same type design, this AD requires incorporation of Garrett Service Bulletin (SB) TPE331-A72-0571, dated March 31, 1988, to correct the unsafe condition by reducing the second stage turbine rotor service life from 6,800 to 4,800 cycles.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and

public procedure, comments are invited on the rule.

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director. This rule may be amended in light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD, and determining whether additional rulemaking is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available for examination in the Rules Docket at the address given above by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this amendment must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-ANE-18". The postcard will be date/time stamped and returned to the commenter.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impractical for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of the final evaluation, if filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding to § 39.13 the following new airworthiness directive (AD):

§ 39.13 [Amended]

Garrett Engine Division, Allied-Signal Incorporated (formerly Garrett Turbine Engine Company, formerly AiResearch Manufacturing Company of Arizona): Applies to model TPE331-10, -10R, -10U, -10UA, -10UF, -10UG, -10UGR, -10UR, and -11U turboprop engines equipped with second stage turbine rotors, part numbers 3102106-1, -6, and -8, installed in aircraft certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent an uncontained engine failure, accomplish the following:

(a) Remove from service the second stage turbine rotor per the schedule below in accordance with the accomplishment instructions of Garrett Alert SB TPE331-A72-0571, dated March 31, 1988:

Second Stage turbine rotor cycles since new (CSN)	Removal schedule
0 to 4,400.....	Prior to 4,800 cycles since new (CSN).
4,401 to 5,000....	Within 400 cycles after the effective date of this AD or 5,200 CSN, whichever occurs first.
5,001 to 5,900....	Within 200 cycles after the effective date of this AD or 6,000 CSN, whichever occurs first.
5,901 to 6,800....	Within 100 cycles after the effective date of this AD or 6,800 CSN, whichever occurs first.

(b) Remove from service prior to January 1, 1989, all second stage turbine rotors with 4,800 or more cycles since new (CSN), regardless of the schedule provided in paragraph (a) above.

Note.—Garrett SB TPE331-72-0180 Revision 12, dated March 31, 1988, which defines critical component service life limits includes the required life limit and states the cycle definitions.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Los Angeles Aircraft Certification Office, Federal Aviation Administration, Northwest Mountain Region, 4344 Donald Douglas Drive, Long Beach, California 90808.

(e) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Los Angeles Aircraft Certification Office, Northwest Mountain Region, may adjust the compliance schedule specified in this AD.

Garrett SB, TPE331-A72-0571, dated March 31, 1988, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received the manufacturer's SB may obtain copies upon request to Garrett General Aviation Services Division, Distribution Center, 2340 East University, Phoenix, Arizona 85034.

This document may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 311, Rules Docket Number 88-ANE-18, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective on June 6, 1988.

Issued in Burlington, Massachusetts, on April 22, 1988.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 88-12062 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-22-AD; Amdt. 39-5942]

Airworthiness Directives; GQ Security Parachutes, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD), which was previously made effective to all known U.S. parachute lofts and parachute riggers by individual letters. This AD requires the removal from service of GQ Security Parachutes, Inc., parachute canopies, Model No. 79A1684-(). That action was prompted by reports that certain of these parachute canopies were found to have deteriorating material. This condition, if not corrected, could result in a torn

canopy, which could prevent safe descent of the parachute user.

DATES: Effective June 17, 1988.

This AD was effective earlier to all recipients of priority Letter AD 88-05-08, dated March 7, 1988.

ADDRESSES: GQ Security Parachutes, Inc., no longer exists. A copy of all documents applicable to this AD may be examined at the Federal Aviation Administration (FAA), Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Eierman, Aerospace Engineer, Systems & Equipment Section, ANM-173W, FAA, Northwest Mountain Region, Western Aircraft Certification Office, Post Office Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007; telephone (213) 297-1388.

SUPPLEMENTARY INFORMATION: On March 7, 1988, the FAA issued Priority Letter AD 88-05-08, applicable to GQ Security Parachutes, Inc., Model No. 79A1684-(), parachute canopies approved under TSO C23b, which requires removal of these canopies from service. That action was prompted by reports that several of these canopies were found to have deteriorating material. This condition, if not corrected, could result in a torn canopy, which could prevent safe descent of the parachute user.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document

involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive (AD):

G Q Security Parachutes, Inc.: Applicable to Model No. 79A1684-() parachute canopies, approved under TSO C23b. Compliance is required as indicated, unless already accomplished.

To prevent the failure of a parachute canopy due to deteriorating canopy material, accomplish the following:

A. Prior to further use, remove or obliterate the TSO C23 by marking from the parachute canopy, and remove the canopy from service.

B. Upon request, an alternate means of compliance with the requirements of this AD, which provides an acceptable level of safety, may be used when approved by the Manager, Western Aircraft Certification Office, FAA, Northwest Mountain Region.

This amendment becomes effective June 17, 1988.

It was effective earlier to all recipients of Priority Letter AD 88-05-08, issued March 7, 1988.

Issued in Seattle, Washington, on May 20, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-12064 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-ASW-46; Amdt. 39-5896]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale Alouette/Lama Model SA 315B, SA 3160, SA 316B, SA 316C, SA 3180, SA 318B, SA 318C, and SA 319B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Societe Nationale Industrielle Aerospatiale (SNIAS) Alouette/Lama Model SA 315B, SA 3160, SA 316B, SA 316C, SA 3180, SA 318B, SA 318C, and SA 319B helicopters, which supersedes AD 73-13-02, Amendment 39-1666, as amended by Amendment 39-2527. The new AD requires accomplishment of a manufacturer's mandatory service bulletin to improve the sealing on the freewheel and main gear box/freewheel/clutch unit coupling. The new AD is needed to prevent confusion and conflicting maintenance information and inspection intervals between the existing AD and mandatory manufacturer's maintenance instructions.

DATE: Effective Date: May 31, 1988.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 31, 1988.

Compliance: Required as indicated in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, or may be examined in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Room 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel E. Brodie, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0110, telephone (817) 624-5116.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD superseding an existing AD on SNIAS Lama and Alouette model helicopters was published in the Federal Register on November 16, 1987 (52 FR 43711).

The proposal was prompted by revisions to the manufacturer's service bulletins which superseded the service

bulletins referenced in the current AD contradicting the information contained in AD 73-13-02.

AD 73-13-02, Amendment 39-1666, as amended by Amendment 39-2527, currently requires compliance with certain SNIAS mandatory service bulletins, and also requires recurring inspections of the freewheel shaft on SNIAS Lama and Alouette model helicopters. After issuing AD 73-13-02, the FAA determined that the manufacturer has issued mandatory service bulletins which supersede information contained in AD 73-13-02. Therefore, the FAA is adopting a new AD that supersedes AD 73-13-02 and requires compliance with the manufacturer's new service bulletins on SNIAS Lama and Alouette model helicopters.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without change.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation only involves 177 helicopters. The AD will reduce the inspection requirements for the helicopters involved, thereby resulting in reduced maintenance costs and a savings to the fleet of \$223,000 per year. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends § 39.13 of Part 39 of the FAR as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to all SNIAS Alouette/Lama Model SA 315B, SA 3160, SA 316B, SA 316C, SA 3180, SA 318B, SA 318C, and SA 319B helicopters, equipped with main gearbox P/N 3160S62-00-0000 or P/N 319A62-00-000; freewheel P/N 3160S60-10-000; and clutch P/N 3160S63-20-000, P/N 3180S63-10-000, or P/N 319A63-00-000, certificated in all categories.

Compliance is required as indicated (unless already accomplished).

To prevent failures of the main drive shaft and freewheel assemblies by ensuring proper operation of the main gearbox oil jet, P/N 3160A62-01-002, and to improve sealing at the freewheel attachment joints, accomplish the following:

(a) Within the next 100 hours' time in service or upon observance of a freewheel coupling and seal oil leak, whichever is earlier, comply with Alouette Service Bulletin 65-81, Issue 2, dated February 14, 1979, or Lama Service Bulletin 65-06, Issue 2, dated February 14, 1979, as applicable.

(b) After compliance with paragraph (a) of this AD, accomplish the following: After the first flight following the installation of a new or overhauled main gearbox, then every 100 hours' time in service, comply with section 1(c) of Alouette Service Bulletin 05-65, dated February 14, 1979, or Lama Service Bulletin 05-14, dated February 14, 1979, as applicable.

Note.—Service Bulletin 05-65 supersedes Service Bulletin 05-42, dated November 10, 1971, and Service Bulletin 05-14 supersedes Service Bulletin 05-01, dated November 10, 1971.

(c) An alternate method of compliance, which provides an equivalent level of safety, may be used when approved by the Manager, Aircraft Certification Division, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0100, or by the Manager, Brussels Aircraft Certification Office, AEU-100, c/o American Embassy, Brussels, Belgium, APO NY 09667.

The procedures shall be done in accordance with Alouette Service Bulletin 65-81, Issue 2, dated February 14, 1979, or Lama Service Bulletin 65-06, Issue 2, dated February 14, 1979, and Alouette Service Bulletin 05-65, dated February 14, 1979, or Lama Service Bulletin 05-14, dated February 14, 1979, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may

be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005. Copies may be inspected in the Rules Docket, Office of Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Building 3B, Room 158, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment supersedes AD 73-13-02, Amendment 39-1666, as amended by Amendment 39-2527.

This amendment becomes effective May 31, 1988.

Issued in Fort Worth, Texas, on April 15, 1988.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 88-12065 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 25612; Amdt. No. 1374]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—
1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT:

Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the *Federal Register* expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of

new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on May 13, 1988.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

... Effective August 25, 1988

Grand Rapids, MN—Grand Rapids/Itasca Co-Gordon Newstrom Fld, NDB RWY 34, Amdt. 5

St. Paul, MN—Lake Elmo, NDB RWY 3, Amdt. 3

St. Paul, MN—St. Paul Downtown Holman Fld, NDB RWY 30, Amdt. 6

South St. Paul, MN—South St. Paul Muni-Richard E. Fleming Fld, NDB-B, Amdt. 3

... Effective July 28, 1988

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, VOR RWY 30, Amdt. 11

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, VOR/DME RWY 12, Amdt. 7

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, NDB RWY 23, Amdt. 4

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, ILS RWY 23, Amdt. 4

... Effective June 30, 1988

Concord, CA—Buchanan Field, LDA RWY 19R, Amdt. 7

Fullerton, CA—Fullerton Muni, LOC RWY 24, Amdt. 2

Santa Ana, CA—John Wayne Airport-Orange County, VOR RWY 1L, Amdt. 2, *Cancelled*

Santa Ana, CA—John Wayne Airport-Orange County, VOR RWY 19R, Amdt. 23, *Cancelled*

Danbury, CT—Danbury Muni, LOC RWY 8, Orig.

Venice, FL—Venice Muni, VOR/DME-A, Amdt. 4, *Cancelled*

Douglas, GA—Douglas Muni, VOR-A, Amdt. 5

Douglas, GA—Douglas Muni, LOC RWY 4, Amdt. 1

Douglas, GA—Douglas Muni, NDB RWY 4, Amdt. 1

Thomson, GA—Thomson-McDuffie County, NDB RWY 28, Amdt. 6

Kahului, HI—Kahului NDB RWY 20, Amdt. 8

Caldwell, ID—Caldwell Industrial, NDB RWY 30, Amdt. 2

Staples, MN—Staples Muni, NDB RWY 14, Amdt. 4

Kinston, NC—Eastern Rgnl Jetport at Stallings Fld, VOR RWY 23, Amdt. 11

Kinston, NC—Eastern Rgnl Jetport at Stallings Fld, VOR/DME RWY 5, Amdt. 11

Kinston, NC—Eastern Rgnl Jetport at Stallings Fld, NDB RWY 5, Amdt. 9

Kinston, NC—Eastern Rgnl Jetport at Stallings Fld, ILS RWY 5, Amdt. 8

Pohnpei Island, Federated States of Micronesia—Pohnpei Intl, NDB/DME RWY 9, Amdt. 3

Pohnpei Island, Federated States of Micronesia—Pohnpei Intl, NDB-B, Amdt. 3

Pohnpei Island, Federated States of Micronesia—Pohnpei Intl, NDB-C, Amdt. 3

Babelthuap Island, Caroline IS., T.T.—Babelthuap/Koror, NDB RWY 9, Amdt. 2

... Effective May 11, 1988

Manchester, NH—Manchester Arpt/Grenier Industrial Airpark, ILS RWY 35, Amdt. 16

... Effective May 5, 1988

Sitka, AK—Sitka, NDB-A, Amdt. 1

Soldotna, AK—Soldotna, RNAV RWY 7, Amdt. 3

Soldotna, AK—Soldotna, RNAV RWY 25, Amdt. 3

Chanute, KS—Chanute Martin Johnson, RNAV RWY 36, Amdt. 1

The FAA published an Amendment in Docket No. 25592, Amdt. No. 1372 to Part 97 of the Federal Aviation Regulations (VOL 53 FR No. 83 Page 15374; dated Friday, April 29, 1988, under Section 97.27 effective June 30, 1988, which is hereby amended as follows:

Winnsboro, SC, Fairfield County, NDB RWY 4, Amdt. 3, effective date changed to 25 AUG 88.

The FAA published an Amendment in Docket No. 25600, Amdt. No. 1373 to Part 97 of the Federal Aviation Regulations (VOL 53 FR No. 89 Page 16388; dated Monday May 9, 1988, under Section 97 effective June 30, 1988, which is hereby amended as follows:

New Bedford, MA—New Bedford Muni, LOC BC RWY 23, Amdt. 6 is rescinded, Amdt. 5 remains in effect.

New Bedford, MA—New Bedford Muni, NDB RWY 5, Amdt. 10 is rescinded, Amdt. 9 remains in effect.

[FR Doc. 88-12063 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION**16 CFR Part 13**

[Docket No. C-3229]

NEC Home Electronics (U.S.A.), Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Delaware computer corporation with its principal office in Wood Dale, IL, to provide consumer redress and to contact each consumer who purchased a 32K board. The consent order also prohibits

the respondent from falsely claiming that any of its computer hardware products currently has a stated memory capacity or other capability and from claiming purchasers of its products have access to a stated memory capacity or other capability unless the respondent has substantiation for the claim.

DATE: Complaint and Order issued May 11, 1988.¹

FOR FURTHER INFORMATION CONTACT: Jock K. Chung, FTC/S-4631, Washington, DC 20580. (202) 326-2984.

SUPPLEMENTARY INFORMATION: On Wednesday, March 2, 1988, there was published in the *Federal Register*, 53 FR 6667, a proposed consent agreement with analysis in the Matter of NEC Home Electronics (U.S.A.), Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—*Advertising Falsely Or Misleadingly*: § 13.10 *Advertising falsely or misleadingly*; § 13.175 *Quality of product or service*. Subpart—*Corrective Actions And/Or Requirements*: § 13.533 *Corrective actions and/or requirements*; § 13.533-20 *Disclosures*; § 13.533-45 *Maintain records*; § 13.533-45(e) *Correspondence*; § 13.533-45(k) *Records, in general*; § 13.533-50 *Maintain means of communication*; § 13.533-55 *Refunds, rebates, and/or credits*; § 13.533-57 *Restitution*. Subpart—*Misrepresenting Oneself And Goods—Goods*: § 13.1575 *Comparative data or merits*; § 13.1590-20 *Federal Trade Commission Act*; § 13.1710 *Qualities or properties*; § 13.1755 *Success, use or standing*; § 13.1770 *Unique nature or advantages*.

List of Subjects in 16 CFR Part 13

Computer products and equipment, Trade practices.

¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,
Secretary.

[FR Doc. 88-12040 Filed 5-27-88; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 85F-0578]

Indirect Food Additive; Polymers

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of nylon 6/69 polymer, manufactured by the condensation of *epsilon*-caprolactam, hexamethylenediamine, and azelaic acid, for use as the nonfood-contact layer in multilayer structures intended for the cooking and holding of nonalcoholic food at temperatures not to exceed 100 °C (212 °F). This action responds to a petition filed by EMS-CHEMIE AG.

DATES: Effective May 31, 1988; objections by June 30, 1988.

ADDRESS: Written objections are to be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 30, 1986 (51 FR 3844), FDA announced that a petition (FAP 5B3852) had been filed by EMS-CHEMIE AG, CH-7013 Domat/Ems, Switzerland, proposing that § 177.1390 *High-temperature laminates* (21 CFR 177.1390) be amended to provide for the safe use of a nylon 6/69 polymer manufactured by the condensation of *epsilon*-caprolactam, hexamethylenediamine, and azelaic acid for use in laminates that may contact food at temperatures not to exceed 100 °C (212 °F).

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe. However,

subsequent to the publication of the filing notice for this petition, the agency established a new food additive regulation in 21 CFR 177.1395, for laminates used at temperatures between 49 °C (120 °F) and 121 °C (250 °F) and changed the section heading of § 177.1390 *High-temperature laminates* (21 CFR 177.1390) to read § 177.1390 *Laminate structures for use at temperatures of 250 °F and above* (52 FR 33574; September 4, 1987). Because 100 °C (212 °F) will be the maximum allowable temperature for laminates containing the nylon 6/69 as a nonfood-contact layer, it is more appropriate to regulate this food additive in new 21 CFR 177.1395 than in 21 CFR 177.1390. The agency is also including a description of the nylon 6/69 resin in 21 CFR 177.1500 *Nylon resins* with a cross-reference to the permitted conditions of use listed in 21 CFR 177.1395.

Additionally, in response to questions received following the publication of new 21 CFR 177.1395, the agency wishes to make clear that substances listed in paragraph (b) of the regulation for use as nonfood-contact layers may, unless otherwise stated, be used without any limitations as nonfood layers at temperatures below 49 °C (120 °F). Based on the knowledge that it has gleaned from reviewing numerous petitions for substances of this type, FDA is confident that there will be virtually no migration of components from nonfood-contact layers at temperatures lower than 49 °C (120 °F). FDA intends to amend § 177.1395 to incorporate this determination in the regulation in the near future.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m. Monday through Friday. This action was considered under FDA's final rule

implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before June 30, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 177.1395 is amended by adding a new entry to the list of substances in the table in paragraph (b)(4) to read as follows:

§ 177.1395 *Laminate structures for use at temperatures between 120 °F and 250 °F.*

* * *

(b) * * *

(4) * * *

Substances	Limitations
Nylon 6/69 resins complying with § 177.1500(b), item 14, of this chapter (CAS Reg. No. 51995-62-1).	For use with nonalcoholic foods under conditions of use B, C, D, E, F, G, and H described in Table 2 of § 176.170 of this chapter. Laminate structures with authorized food-contact materials may contain nylon 6/69 resins provided that the nitrogen content of aqueous extracts of a representative laminate (obtained at 100 °C (212 °F) for 8 hours) does not exceed 15 micrograms per square centimeter (100 micrograms per square inch).

3. Section 177.1500 is amended by adding new paragraph (a)(14), by adding a new column entitled "Viscosity number (mL/g)" and a new entry 14 to the table in paragraph (b), by redesignating paragraph (c)(5) as (c)(5)(i), and by adding (c)(5)(ii) to read as follows:

§ 177.1500 Nylon resins.

* * * * *

(a) * * *

(14) Nylon 6/69 resins (CAS Reg. No. 51995-62-1) are manufactured by the condensation of 49.5+0.5 weight percent epsilon-caprolactam, 19.4+0.2 weight percent hexamethylenediamine and 31.2+0.3 weight percent azelaic acid.

(b) * * *

Nylon resins	Specific gravity	Melting point (degrees Fahrenheit)	Solubility in boiling 4.2N HCl	Viscosity number (mL/g)	Maximum extractable fraction in selected solvents (expressed in percent by weight of resin)			
					Water	95 percent ethyl alcohol	Ethyl acetate	Benzene
14. Nylon 6/69 resins for use only as specified in 21 CFR 177.1395 of this chapter.	1.09 ± 0.02	270-277		> 140 using the method described in § 177.1500(c)(5)(ii) of this chapter.	3.0			

(c) * * *

(5) Viscosity number (VN). (i) * * *

(ii) The viscosity number (VN) for Nylon 6/69 resin in a 99 percent cresol solution (5 milligrams resin per milliliter) shall be determined at 25 °C (77 °F) by method ISO 307-1984(E), "Plastics-Polyamides-Determination of Viscosity Number," which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(5)(i) of this section.

Dated: May 6, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-12098 Filed 5-27-88; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Hyaluronate Sodium Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of the new animal drug application (NADA) filed by Fort Dodge Laboratories, Inc., providing for safe and effective use of hyaluronate sodium injection in treating horses

intraarticularly for carpal or fetlock joint dysfunction due to acute or chronic noninfectious synovitis associated with equine osteoarthritis.

EFFECTIVE DATE: May 31, 1988.

FOR FURTHER INFORMATION CONTACT:

Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION:

Fort Dodge Laboratories, Inc., Fort Dodge, IA 50501-0518, is sponsor of NADA 140-806 which provides for intraarticular injection of a solution containing 10 milligrams per milliliter of hyaluronate sodium (HYALOVET®) for treating horses for carpal and fetlock joint dysfunction due to acute or chronic noninfectious synovitis associated with equine osteoarthritis. The application is approved and the regulations are amended by adding § 522.1145(c) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 522.1145 is amended by adding new paragraph (c) to read as follows:

§ 522.1145 Hyaluronate sodium injection.

* * * * *

(c)(1) Specifications. Each milliliter of sterile aqueous solution contains 10 milligrams of hyaluronate sodium.

(2) *Sponsor.* See 000856 in § 510.600(c) of this chapter.

(3) *Conditions of use—(i) Amount.* Small and medium-size joints (carpal, fetlock)—20 milligrams.

(ii) *Indications for use.* Treatment of carpal or fetlock joint dysfunction in horses due to acute or chronic noninfectious synovitis associated with equine osteoarthritis.

(iii) *Limitations.* For intraarticular injection in horses only. Treatment may be repeated after 1 or more weeks but not to exceed 2 injections per week for a total of 4 weeks. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: May 24, 1988.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 88-12097 Filed 5-27-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

22 CFR Parts 120, 121, 122, 123, 124, 125, 126, 127, and 128

[Public Notice 1063]

Partial Extension of Compliance Deadline and Clarification of the International Traffic in Arms Regulations (ITAR) Amendments

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of an extension of the grace period for compliance with a provision of, and clarifications to, the Final Rule issued on April 4, 1988 and published in the *Federal Register* on April 7, 1988 (53 FR 11494) regarding the International Traffic in Arms Regulations and Implementation of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Dec. 22, 1987, Pub. L. 100-204, 101 Stat. 1331, 1429).

EFFECTIVE DATE: May 9, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph Smaldone, Chief, Licensing Division, Office of Munitions Control, Department of State (202-875-6644), or Miriam Sapiro, Office of the Legal Adviser, Department of State (202-647-7838).

SUPPLEMENTARY INFORMATION: This notice effects (1) an extension of the May 16, 1988 deadline for submission of certain information required by § 126.13(a); and (2) clarifications of the scope of the information required by §§ 122.2(b)(1) and 126.13(a).

The supplementary information contained in the Final Rule issued on

April 4, 1988 states that, as of May 16, 1988, the Office of Munitions Control will return applications for licenses or other approvals that omit the information required by § 126.13. Representatives from industry, including trade associations and individual registrants, have expressed concern to the Office of Munitions Control and to members of Congress that applicants have found it difficult, if not impossible, to compile the information required by § 126.13(a) prior to the May 16, 1988 deadline. In response to the concern expressed and the explanations provided by industry, and in light of the Department's interest in obtaining accurate and complete information, the Office of Munitions Control has changed the date to July 1, 1988. The information required by § 126.13(b) must still be included in all applications submitted after May 16, 1988.

Sections 122.2(b)(1) and 126.13(a) require that intended registrants and applicants, respectively, provide information about the past behavior (e.g., indictment, conviction, or ineligibility to contract with or receive certain licenses or other approvals from a U.S. Government agency) of "the chief executive officer, president, vice-presidents, other senior officers or officials * * * or any member of the board of directors." Questions have arisen regarding the scope of these provisions. For the purposes of these provisions, the persons referred to in these subsections include those U.S. and foreign natural persons who hold such offices: (1) With responsibility for the overall policy or management of the registrant/applicant; or (2) with direct policy or management responsibility for any divisions or subsidiaries of the registrant/applicant in the United States or abroad involved in the manufacture or export of defense articles or the furnishing of defense services.

A question has also arisen regarding whether a registrant/applicant must state that any of these persons are ineligible to receive certain licenses or other approvals from a U.S. Government agency solely because the person holding the office is not a U.S. person. Sections 122.2(b)(1)(ii) and 126.13(a)(2) do not require disclosure of ineligibility based solely upon the fact that, pursuant to § 120.1(b), foreign persons other than governmental entities are not eligible to receive licenses or other approvals.

Dated: May 25, 1988.

William B. Robinson,

Director, Office of Munitions Control, Bureau of Politico-Military Affairs.

[FR Doc. 88-12087 Filed 5-27-88; 8:45 am]

BILLING CODE 4710-25-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 235

[Docket No. R-88-1399; FR-2526]

Mortgage Insurance; Changes in Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations increases the maximum allowable interest rate on section 235 (Homeownership for Lower Income Families) insured loans. This final rule is intended to bring the maximum permissible financing charges for this program into line with competitive market rates.

EFFECTIVE DATE: May 23, 1988.

FOR FURTHER INFORMATION CONTACT:

John N. Dickie, Chief Mortgage and Capital Market Analysis Branch, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 755-7270. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following amendments to 24 CFR Ch. II have been made to increase the maximum interest rate which may be charged on loans insured by this Department under section 235 of the National Housing Act. The maximum interest rate on the HUD/FHA Section 235 insurance programs has been raised from 10.00 percent to 10.50 percent.

Until recently, HUD regulated interest rates not only for the Section 235 Program, but also for fire safety equipment loans insured under Section 232 of the National Housing Act. However, section 429(e)(2) of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) amended the National Housing Act to provide that interest on fire safety equipment loans under section 232(i) of the Act will be "at such rate as may be agreed upon by the mortgagor and the mortgagee." Accordingly, these loans, like most other National Housing Act-authorized loans, now have their interest rates determined by negotiation. Accordingly, this announcement of a change in interest rate ceilings for FHA-insured mortgages is limited to the Section 235 Program.

The Secretary has determined that this change is immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change.

As a matter of policy, the Department submits most of its rulemaking to public comment, either before or after effectiveness of the action. In this instance, however, the Secretary has determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this final rule effective immediately. HUD regulations published at 47 FR 56266 (1982), amending 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusions set forth in paragraph (1) of § 50.20, the preparation of an Environmental Impact Statement or Finding of No Significant Impact is not required for this rule. This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a small increase in the mortgage interest rate in programs of limited applicability, and thus of minimal effect on small entities. This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 26, 1987 (52 FR 40358) pursuant to Executive Order 12291 and the Regulatory Flexibility Act. The Catalog of Federal Domestic Assistance program numbers are 14.108, 14.117, and 14.120.

List of Subjects in 24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant

programs: Housing and community development.

Accordingly, the Department amends 24 CFR Part 235 as follows:

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

1. The authority citation for 24 CFR Part 235 continues to read as follows:

Authority: Secs. 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 235.9, paragraph (a) is revised to read as follows:

§ 235.9 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 10.50 percent per annum with respect to mortgages insured on or after May 23, 1988.

3. In § 235.540, paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed on by the mortgagee and the mortgagor, which rate shall not exceed 10.50 percent per annum with respect to mortgages insured after May 23, 1988.

Dated: May 20, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 88-12108 Filed 5-27-88; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

(T.D. 8201)

Income Taxes; Section 904 (f) Transition Rules; Foreign Tax Credits

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains a correction to temporary regulations that were published in the Federal Register for Tuesday, May 17, 1988 (53 FR 17461) as Treasury Decision 8201. The regulations relate to transition rules for implementing the changes made to

section 904 (f) of the Internal Revenue Code of 1986 by the Tax Reform Act of 1986.

DATES: These temporary regulations apply to taxable years beginning after December 31, 1986, and are effective after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Willard W. Yates, at 202-566-3896 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections provide the public with guidance needed to comply with that Act and will affect individuals and entities claiming the foreign tax credit.

Need for Corrections

As published, Treasury Decision 8201 contains errors in one of its examples. This document corrects those errors.

Correction of Publication

Accordingly, the publication of temporary regulations (T.D. 8201), which was the subject of FR Doc. 88-10921, is corrected as follows:

PART 1—[AMENDED]

On page 17463, second column, Example (2), should read:

§ 1.904(f)-131 [Amended]

Example (2). The facts are the same as in Example (1) except that X has \$800 of financial services income, \$100 of general limitation income, a \$100 dividend from a noncontrolled section 902 corporation and a (\$100) shipping loss for its taxable year ending December 31, 1988. Pursuant to paragraph (a)(2) of this section, the rules of section 904 (f)(5) apply before recapture of overall foreign losses. Therefore, the (\$100) shipping loss incurred by X will be allocated to its separate limitation income as follows: \$80 (\$100 × 800/1000) will be allocated to X's financial services income, \$10 (\$100 × 100/1000) will be allocated to its general limitation income and \$10 (\$100/1000) will be allocated to X's dividend from the noncontrolled section 902 corporation. Accordingly, after allocation of the 1988 shipping loss, X has \$720 of financial services income, \$90 of general limitation income, and a \$90 dividend from the noncontrolled section 902 corporation. Pursuant to section 904 (f)(1), the full amount in each of X corporation's overall foreign loss accounts is subject to recapture since \$200 (the sum of those amounts) is less than 50% of X's foreign source taxable income for its 1988 taxable year, or \$450. X's overall foreign loss incurred during its 1988 taxable year is recaptured as follows: \$80 (\$100 × 720/900) of X's financial services income, \$10 (\$100 × 90/900) of its general limitation income and \$10 (\$100 × 90/900) of its dividend from the noncontrolled

section 902 corporation will be treated as U.S. source income. Accordingly, after application of section 904 (f), X has \$100 of U.S. source income, \$640 of financial services income, \$80 of general limitation income and a \$80 dividend from the noncontrolled section 902 corporation for its 1988 taxable year. X must establish a separate limitation loss account for each portion of the 1988 shipping loss that was allocated to its financial services income, general limitation income and dividends from the noncontrolled section 902 corporation. X's overall foreign loss account for the 1986 general limitation loss is reduced to zero. X still has a \$100 balance in its overall foreign loss account that resulted from the 1987 shipping loss.

* * * * *

Bernard T. Bress,

Senior Technical Reviewer, Associate Chief Counsel (International).

[FR Doc. 88-12120 Filed 5-27-88; 8:45 am]

BILLING CODE 4830-01-M

Fiscal Service

31 CFR Part 358

[Dept. of the Treasury Cir., Public Debt Series No. 28-87]

Regulations Governing Coupons Under Book-Entry Safekeeping (CUBES)

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: On November 2, 1987, at 51 FR 44003, the Department of the Treasury published an interim rule with a request for comments. The interim rule established regulations governing the Treasury's Coupons Under Book-Entry Safekeeping ("CUBES") program. The interim rule is being adopted as the final rule without change.

EFFECTIVE DATE: May 27, 1988.

FOR FURTHER INFORMATION CONTACT: Rochelle F. Granat, Attorney-Adviser, Bureau of the Public Debt, Washington, DC, (202) 447-9859.

SUPPLEMENTARY INFORMATION: One written comment on the interim rule was received. This comment did not address any actual term of the interim rule but urged the Treasury to establish another opportunity for depository institutions to submit coupons stripped from physical Treasury securities for conversion to book-entry form. The Notice published in the *Federal Register* on December 5, 1986 (51 FR 44003), which announced the CUBES program, stated that the CUBES program would provide a one-time opportunity to present physical coupons for conversion to book-entry form. At present the Treasury has no plans to

provide another opportunity to present physical coupons for conversion.

Procedural Requirements

This rule is not a "major rule" as defined in Executive Order 12291. A regulatory impact analysis is therefore not required.

The notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rule making is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) does not apply to this rule because it does not contain information collection requirements which necessitate approval by the Office of Management and Budget.

List of Subjects in 31 CFR Part 358

Government securities, Federal Reserve System.

Accordingly, the interim rule adding Part 358 to Subchapter B of Title 31, Code of Federal Regulations, Chapter II, which was published at 52 FR 41990-41993 on November 2, 1987, is adopted as final rule without change.

Dated: May 18, 1988.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 88-12055 Filed 5-27-88; 8:45 am]

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1153 and 1155

Authorities and Delegations and Statement of Organization and Procedures

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board at its March 9, 1988 meeting adopted amendments to its Statement of Organization and Procedures and Authorities and Delegations, which set forth the procedures for Board and Board committee meetings. The amendments to the Statement of Organization and Procedures and the amendments to the Authorities and Delegations were adopted to improve the orderly function of Board and committee operations and to effect the

reorganization of the committee structure of the Architectural and Transportation Barriers Compliance Board.

The amendments to the Statement of Organization and Procedures and the amendments to the Authorities and Delegations are being published so that all affected persons will be fully informed about procedures governing the meetings and to implement the act.

EFFECTIVE DATE: March 9, 1988.

FOR FURTHER INFORMATION CONTACT:

Nicholas Chiarkas, General Counsel, Architectural and Transportation Barriers Compliance Board, 1111 18th Street NW., Suite 501, Washington, DC, (202) 653-7834 (voice or TDD).

SUPPLEMENTARY INFORMATION: Pursuant to section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 391, as amended, the Architectural and Transportation Barriers Compliance Board (hereinafter ATBCB or the Board) adopted a Statement of Organization and Procedures on September 16, 1975. The Statement was published at 50 FR 1032 (1975) and codified at 36 CFR Part 1155. The Statement was amended by the Board on May 9, 1977; March 14, 1978; May 8, 1978; March 11, 1980; May 10, 1983; May 12, 1986 and on September 16, 1987. Some of the major changes in the revised Statement of Organization and Procedures passed by the ATBCB at its March 9, 1988 meeting are:

(1) All references to the designation "Chairperson" were amended to read "Chair".

(2) The Chair of the Board will set the agenda with the approval of the Executive Committee and proposals for Board action will be submitted to the Chair. The Chair may then submit the item to a committee for action prior to Board action.

(3) The Executive Committee will be composed of six members to include the Chair and Vice-Chair (of the Board), the chairs of each of the two subject matter committees and two at large members. The two at large members shall be elected annually by the Board and shall balance the number of federal and public members. The chair of the Executive Committee shall be the Vice-Chair of the Board.

(4) Except as otherwise stated, use of proxies shall be prohibited at Executive and subject matter committee meetings.

(5) Each subject matter committee shall be composed of seven members. The chair of each committee will be elected by the Board and the Chair of the Board will appoint six additional members to each committee. A quorum shall be four members. In the case of

Federal members, the liaison may represent the Federal member in subject matter committees for the limited purpose of establishing a quorum.

(6) Special Committees shall be governed by the same rules and procedures applicable to subject matter committees unless otherwise prescribed.

(7) References to pay grades "GS" and "GA" shall be amended to read "GM".

Pursuant to section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 391, as amended, the ATBCB adopted its Authorities and Delegations of July 12, 1983. The Authorities and Delegations were published at 48 FR 53975 (1983) and codified at 36 CFR Part 1153. The ATBCB adopted amendments to the Authorities and Delegations on September 11, 1985 and on March 9, 1988. Some of the major changes in the revised Authorities and Delegations passed by the ATBCB at its March 9, 1988 meeting are:

(1) All references to the designation "Chairperson" were amended to read "Chair".

(2) The Chair of the Board will not appoint the chairs of the subject matter committees or the Executive Committee.

(3) The chair will establish the Board meeting agenda with the approval of the Executive Committee.

(4) The Vice-Chair of the Board shall be the Chair of the Executive Committee.

(5) Subject matter committee chairs will be elected annually by the Board.

(6) The Executive Committee may recommend to the Chair of the Board that an item be placed on Board agenda subject to the approval of the Executive Committee.

(7) The provision that the Executive Committee will ensure the orderly functioning of the committees' work and the process for reviewing matters that are proposed for the Board's consideration has been deleted.

(8) Subject matter committees will report to the Board instead of the Executive Committee.

(9) In § 1153.(e)(1), the word "may" was inserted between "Board" and "in".

(10) References to pay grades "GS" and "GA" shall be amended to read "GM".

List of Subjects

36 CFR Part 1153

Authority delegations (Government agencies). Organizations and functions (Government agencies).

36 CFR Part 1155

Authority delegations (Government agencies). Handicapped organizations and functions (Government agencies).

For the reasons stated in the preamble, Chapter XI of Title 36, Code of Federal Regulations, is amended by revising Parts 1153 and 1155 to read as follows:

PART 1153—AUTHORITIES AND DELEGATIONS

Sec.

1153.1 The Board.

1153.2 Chair.

1153.3 Vice Chair.

1153.4 Executive Director.

1153.5 General Counsel.

1153.6 Committees of the Board.

1153.7 Chief Procurement Officer.

1153.8 Equal employment opportunity.

1153.9 Freedom of Information Officer.

1153.10 Delegations records.

Authority: 29 U.S.C. 792, as amended.

§ 1153.1 The Board.

The Board is the governing body of the agency. The composition of the Board and its functions are established by section 502 of the Rehabilitation Act of 1973. The Board has the following duties and responsibilities, including:

(a) To carry out its responsibilities under section 502 of the Rehabilitation Act of 1973, as amended. In carrying out these responsibilities, the Board may hold public hearings throughout the country.

(b) To establish policies and issue regulations in accordance with its statutory mandate.

(c) To resolve issues that are within its jurisdiction.

(d) To determine and adopt a contracting and procurement policy for the agency. In carrying out this responsibility, the Board will enter into contracts only in accordance with its contracting and procurement policy, published in the **Federal Register**.

(e)(1) To effect the prompt and efficient disposition of all matters within its jurisdiction. In carrying out this responsibility, the Board may in accordance with Article VI of its Statement of Organization and Procedures:

(i) By majority vote delegate to the Executive Committee authority to implement its decisions.

(ii) By two-thirds vote delegate to the Executive Committee any other of its authorities, to the extent permitted by law.

(iii) To the extent permitted by law, delegate other duties to its officers, committees, or staff by a vote of two-thirds of the membership of the Board at the time the vote is taken.

(2) A separate delegation is necessary for each action the Board desires the Executive Committee to implement. Unless so permitted in the original

delegation, an officer, committee, or staff person shall not redelegate authority.

(f) To make to Congress, at the end of each fiscal year, an annual report of the Board's activities during that fiscal year. The annual report shall include such material as it is required by law to include and such other material as the Board may decide.

(g) To make to the President and Congress such other reports as it is required by law to make, and such recommendations as it considers necessary or desirable to eliminate environmental barriers confronting handicapped individuals.

(h) To allocate funds appropriated by the Congress for such activities as conducting investigations and surveys, initiating public hearings, collecting data on past and current studies, and providing stenographic or other services, as necessary, appropriate, and in accordance with law.

(i) To determine the jurisdiction of each standing committee of the Board.

§ 1153.2 Chair.

The Chair represents the Board as the head of the agency, whenever an applicable Federal statute or regulation imposes a duty or grants a right or authority to the head of the agency. The Chair or his or her designee has the following duties and responsibilities:

(a) To coordinate and organize the work of the Board in such a manner as to promote the prompt and efficient disposition of all matters within the jurisdiction of the Board. In carrying out these responsibilities, the Chair is delegated the authority to:

(1) Supervise the Executive Director.

(2) Direct the Executive Director concerning appropriate action to implement decisions of the Board.

(3) Evaluate the Executive Director's performance, and approve performance evaluations of employees who report directly to the Executive Director. A delegation of this authority may only be made to the Vice-Chair of the Board.

(4) Authorize domestic travel for the Executive Director, which authority may be delegated, and authorize foreign travel for staff, Board members and the Executive Director, which authority may not be delegated.

(5) Make necessary administrative decisions for the agency and direct the Executive Director concerning implementation of such decisions during periods when the Board is not in session.

(6) Review and approve publication of the Board newsletter and press releases

which contain expressions of Board policy.

(7) Appoint members to the Board's subject matter committees.

(8) Nominate one or more Board members to serve, with their consent, at each public hearing which may be held by the Board.

(9) Request from departments or agencies represented on the Board such technical, administrative, or other assistance as may be required to carry out the Board's activities.

(10) Hire and fire staff at the GM-14 level and above, and approve promotions to the GM-14 level and above, with the consent of the Executive Committee. The authority to fire staff may only be delegated to the extent permitted by applicable Office of Personnel Management regulations.

(11) Nominate the General Counsel, who is to be confirmed by the Board, and appoint division directors, with the consent of the Executive Committee.

(b) To preside at all meetings and sessions of the Board.

(c) To establish the Board meeting agenda subject to the approval of the Executive Committee.

(d) To represent the Board in all matters relating to congressional testimony and legislative reports. However, any other Board member may present his or her own or minority views on supplemental reports.

(e) To represent the Board in all matters involving submissions of comments on agencies' proposed regulations and responses to published directives of the Office of Management and Budget. The Board shall be given advance written notice of any action taken under this authority. The Chair may file comments on agencies' draft notices of proposed rulemaking (NPRMs), published NPRMs, final rules, other notices published in the *Federal Register*, only with advance approval of the Executive Committee.

(f) To call a special meeting of the Board at the request of the Executive Committee, to take action on a request to the Board to enter litigation as *amicus curiae*.

(g) To maintain ongoing liaisons with constituency groups and other organizations and with staff of interested congressional committees to keep them informed of general Board policies and activities and to obtain information for use by the Board in formulating policy, developing budget requests, and drafting recommended legislative changes.

(h) To carry out other duties and responsibilities as may be delegated by the Board.

§ 1153.3 Vice Chair.

The Vice Chair shall, in the absence of the Chair from a Board meeting, or in the event of his or her death or disqualification, perform the duties and exercise the powers of the Chair, and shall generally assist the Chair and perform such other duties as may be directed by the Chairperson or the Board. The Vice-Chair shall serve as Chair of the Executive Committee.

§ 1153.4 Executive Director.

The Executive Director is appointed by the Board and is responsible to the Board under the supervision of the Chair. He or she has the following duties and responsibilities:

(a) To assist the Chair in carrying out the administrative and executive responsibilities of the Chair in a manner that may be directed by the Chair. These duties may include acting as the administrative head of the agency and in connection therewith assisting in the planning, directing, coordinating, and managing of the administrative affairs of the Board. In carrying out these responsibilities, the Executive Director may exercise authority delegated to him or her in accordance with the Board's contracting and procurement policy published in the *Federal Register*. In addition, the Executive Director is delegated the authority to:

(1) Authorize travel expenses for consultants, specialists, experts, witnesses, and other persons whose presence is deemed essential for attendance at Board meetings, hearings, advisory committee meetings or other functions of the Board.

(2) Reimburse members of the board who are not regular fulltime employees of the United States for travel, subsistence, and other necessary expenses incurred in carrying out their duties.

(b) To recommend to the Chair of the Board, matters that should be considered by the Board or any of its designated committees.

(c) To review with the Board and with heads of the several units and offices, the program and procedures of the Board and to make recommendations thereon as may be necessary to administer section 502 of the Rehabilitation Act of 1973 most effectively in the public interest.

(d)(1) To provide sustained administrative leadership, and supervision and management of staff activities in carrying out the policies and decisions of the Board under the direction and supervision of the Chair. Supervision of staff includes:

(i) Authority to detail, reassign and train all staff, hire and fire staff at the

GM-13 level and below, and promote staff to the GM-13 level.

(ii) Making recommendations to the Chair on hiring and firing staff at the GM-14 level and above, and promoting to the GM-14 level and above.

(iii) Evaluating the performance of all staff who report directly to the Executive Director and approving the performance evaluations of all other staff.

(iv) Advance approval of work activities which are outside the normal scope of the employee's job duties.

(v) The utilization and assignment of staff in support of any Board member of Board committee.

(vi) All other utilization and assignment of staff.

(2) In carrying out these responsibilities, the Executive Director is delegated the authority to authorize domestic travel for all staff, within the Board designated levels in the budget. Approval by the Chair of the Board is required for any travel expenditures above those designated levels.

(e) To direct compliance and enforcement activities in accordance with the procedures set forth in 36 CFR Part 1150 including:

(1) Issuing citations and determinations not to proceed.

(2) Conducting negotiations for compliance, and entering into agreements for voluntary compliance.

(3) All other actions authorized by law pertaining to compliance and enforcement not otherwise reserved to the Board by 29 U.S.C. 792.

(4) Issuing staff manuals which have been approved by the Board, to provide guidance to staff in interpreting the Architectural Barriers Act of 1968 and section 502 of the Rehabilitation Act of 1973, as amended, and standards and guidelines issued pursuant to those Acts. Positions taken in any such manuals will not be inconsistent with established Board policy, and administrative and court rulings, to the maximum extent possible. The manuals will be for staff guidance and will be available to the public upon request.

(f) To direct and supervise the development and execution of routine technical assistance and public information programs, as authorized by law. These activities may be carried out in cooperation with state and local government units, other Federal agencies, and interested consumer groups. Public information program initiatives other than routine program activities shall be approved by the Board in advance.

(g) To provide special administrative assistance to the Board at the request of the Chair.

(h) To direct investigation and research of initiatives submitted by staff or Board members regarding technical assistance or other Board functions.

(i) To propose and implement changes in the functional organization of the Board staff offices, following a written notification to the Board of the nature and reasons for the proposed changes. Personnel actions necessary to implement such changes shall not be approved until there has been a meeting of the Board, following the Board's written notification of the changes, and shall be taken consistent with §1153.2(a)(10).

(j) To submit biweekly reports to the Chair.

(k) To incorporate proposed revisions in the minutes if corrections or additions have been submitted, and present both the original and the corrected minutes to the Board for final approval. The Executive Director shall distribute the approved minutes within the (10) days after approval to: (1) Board members; (2) the House Education and Labor Committee, the House Public Works and Transportation Committee, the Senate Labor and Human Resources Committee, and the Senate Environment and Public Works Committee; and make minutes available to others upon request.

(l) To refer correspondence by the Board which involves a specific department or agency, to that department or agency for reply.

(m) To account to the Board for the administration of program expenditures and keep records which disclose disposition of any funds and the nature and extent of the Board's activities.

(n) To report semi-annually, in writing, to the Board on each procurement regardless of amount entered into the date in the fiscal year, listing each procurement separately with its amount and date. In addition, the report shall list all procurements then in progress that have not been awarded and any procurements being considered for any future time.

(o) To maintain and keep current a separate file containing all delegations of authority, which shall be in writing, and provide copies of all delegations to the Board as they occur.

§ 1153.5 General Counsel.

The General Counsel is nominated by the Chair and confirmed by the Board. He or she is responsible to the Board under the supervision of the Executive Director. The General Counsel has the following duties and responsibilities:

(a) To coordinate and organize the work of the legal staff in order to provide prompt and comprehensive legal advice to the Board.

(b) To provide legal interpretation of statutes, regulations, and rules of procedure for the Board's consideration.

§ 1153.6 Committees of the Board.

(a) *Committee chairs.* The Vice-Chair of the Board shall be the chair of the Executive Committee. The subject matter committee chairs are elected annually by the Board. They have the following duties and responsibilities:

(1) To preside at all meetings of their respective committees.

(2) To provide, after each committee meeting (with the exception of teleconference meetings), an evaluation of the performance of the Board staff person assigned as liaison to the committee. Providing assistance to the committee shall be included as a critical element in the performance standards of each committee liaison staff person. The evaluations are to be considered by the supervisor of each Board committee liaison staff person in the annual performance evaluation.

(3) The chair of the Planning and Budget committee will ensure that work on each Board budget is begun no later than 21 months prior to the date on which the budget is to become operative.

(b) *Executive Committee.* The Executive Committee has the following duties and responsibilities:

(1) To report directly to the Board on matters submitted to the Executive Committee by members and subject matter committees, and all other matters that are within its jurisdiction:

(2) To review and consider recommendations and proposals from the various subject matter committees, and take appropriate action thereon. This may result in recommending to the Chair of the Board that a proposal be placed on the Board agenda for Board action, or referring it back to the subject matter committee for further refinement of its proposals or revision of its reports, or referring it to another committee for appropriate actions.

(3) To issue recommendations to the Chair of the Board concerning proposals on the agenda.

(4) To review the Board's agenda as established by the Chair of the Board.

(5) To assist the Chair in other circumstances at his or her request.

(6) To arrange joint meetings among the appropriate subject matter committees whenever two or more committees have concurrent jurisdiction over a matter, or other related responsibilities.

(7)(i) To review requests to the Board to enter litigation as *amicus curiae*.

(ii) In carrying out these responsibilities, the Executive Committee is delegated the authority to disapprove such requests and make recommendations to the Board to approve such requests. Board approval shall be required prior to any *amicus* filing. The Committee may request the Chair of the Board to call a special meeting of the Board to expedite Board action on the Committee's recommendations.

(8) To review and make recommendations to the Board to amend or approve the Board's statement of organization and procedures, formal policy statements, and authorities and delegations.

(9) To carry out other duties and responsibilities as may be duly delegated by the Board.

(c) *Subject matter committees.* Each subject matter committee studies and reports to the Board on matters that are within the subject matter committee's province, and has the following duties and responsibilities:

(1) To review and consider recommendations or proposals submitted by Board members, committees, and other individuals and entities.

(2)(i) To identify issues and develop policy recommendations for review by the Executive Committee. This includes further refinement of matters that are referred from the Executive Committee, and submission of reports containing recommendations or proposals on which action is to be taken by the Board.

(ii) In carrying out these responsibilities, each subject matter committee is delegated the authority to arrange briefings, and research by designated staff, experts, or Federal member agency staff through requests to the Chair or the Executive Director, whichever is appropriate.

(3) To formulate and present projections of matters to be undertaken by the committee to the Planning and Budget Committee.

(4) To project and formulate the need for staff assistance in performing the committee's functions.

(5) To report, at the direction of the Chair of the Board or the committee, the status of matters that are within the committee's particular jurisdiction.

(6) To advise the Board to forward materials originating within the subject matter committee to another committee with jurisdiction over the matter involved.

(d) *Special Committees.* A Special Committee has the duties and

responsibilities specified by its creator, who shall report the names of its members and chair to the Chair of the Board.

§ 1153.7 Chief Procurement Officer.

The Chief Procurement Officer is designated by the Head of the Procuring Activity in accordance with the Board's contracting and procurement policy published in the *Federal Register*. He or she has the following duties and responsibilities:

(a) To ensure that staff is provided with equipment and other basic supplies and services that are necessary to perform their duties.

(b) To report to the Head of the Procuring Activity in all other matters pertaining to the agency's needs for supplies and services.

§ 1153.8 Equal employment opportunity.

(a) The Director of Equal Employment Opportunity (EEO Director) is designated by the Chair. The EEO Director has the responsibility on a collateral duty basis, to carry out the functions of the EEO Director, Federal Women's Program Coordinator, Hispanic Employment Program Manager, and Handicap Program Coordinator, in accordance with regulations of the Equal Employment Opportunity Commission.

(b) For the purposes of 29 CFR 1613.221, the Chair of the Board shall make the final decision of the Board on a complaint based on information in the complaint file. The Chair may designate another Board member to discharge this responsibility. A person designated to make the decision for the head of the agency shall be one who is fair, impartial and objective.

§ 1153.9 Freedom of Information Officer.

(a) The Board has the responsibility to disseminate information on matters of interest to the public and to disclose on request all information contained in records in its custody insofar as it is compatible with the discharge of its responsibilities and consistent with the Freedom of Information Act, as amended, 5 U.S.C. 552 and the Board regulations "Public Availability of Information" (36 CFR Part 1120).

(b) The Board designates the Executive Director as the Freedom of Information (FOI) Officer. The FOI Officer has the responsibility for implementing the policies and procedures to ensure compliance with the requirements of the Freedom of Information Act and the Board regulations. The Executive Director may delegate that responsibility.

§ 1153.10 Delegations records.

All delegations authorized by these Authorities and Delegations shall be made in writing. Records of all such delegations will be maintained by the Executive Director in a separate file.

PART 1155—STATEMENT OF ORGANIZATION AND PROCEDURES

Sec.

1155.1 Organization and membership.

1155.2 Board meetings.

1155.3 Committees.

1155.4 General Counsel.

1155.5 Fiscal accountability.

1155.6 Delegations.

1155.7 Amendments to the Statement of Organization and Procedures.

1155.8 Amendments to the Authorities and Delegations.

Authority: 29 U.S.C. 792, as amended.

§ 1155.1 Organization and membership.

(a) *Name and organization.* The name of this organization is the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") as provided in section 502 of the Rehabilitation Act of 1973.

(b) *Authorization for the Board.* The statutory authorization for the Board is section 502 of the Rehabilitation Act of 1973, as amended.

(c) *Officers of the Board.* The presiding officers of the Board shall be a Chair and in his or her absence or disqualification a Vice-Chair. The Chair and Vice-Chair shall be elected by a majority of the fixed membership of the Board and shall serve for terms of one year. When the Chair is a member of the general public, the Vice-Chair shall be a Federal official; and when the Chair is a Federal official, the Vice-Chair shall be a member of the general public. Upon the expiration of the term as Chair of a member who is a Federal official, the subsequent Chair shall be a member of the general public; and vice versa. If no new Chair or Vice-Chair has been elected at the end of the one-year term, the incumbents shall continue to serve in that capacity until a successor Chair or Vice-Chair has been elected.

(d) *Membership.* The Board shall be composed of Presidentially appointed public members and the heads of each of the following departments or agencies (or their designees whose positions (or acting positions) are Executive Level IV or higher):

- (1) Department of Education;
- (2) Department of Health and Human Services;
- (3) Department of Transportation;
- (4) Department of Housing and Urban Development;
- (5) Department of Labor;
- (6) Department of Interior;

(7) Department of Defense;

(8) Department of Justice;

(9) General Services Administration;

(10) United States Postal Service; and

(11) Veterans Administration.

(e) *Board vacancies.* (1) If any public member becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the day he or she becomes such an employee.

(2) If any public member is unable to fulfill his or her obligation as a member, the member shall notify the Chair and the President.

(3) A public member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.

(4) A public member whose term has expired may continue to serve until a successor has been appointed.

§ 1155.2 Board meetings.

Regular meetings of the Board shall ordinarily be held on the Wednesday following the second Tuesday of every other month and shall be planned for four hours duration, except as otherwise provided in paragraphs (a) (2) and (4) of this section. Whenever possible, all business shall be transacted at the regular meeting. The Board may elect to convene in executive sessions.

(a) *Prior notification.* (1) The Chair shall provide a written notice of scheduled Board meetings, and an agenda for the meeting, including supporting materials, to each Board member, ten (10) work days prior to the meeting.

(2) The Chair may cancel a regular meeting of the Board by giving written notice of the cancellation in place of the written notice of the scheduled Board meeting at least ten (10) work days prior to the meeting.

(3) Special meetings of the Board shall be called by the Chair to deal with important matters arising between regular meetings which require urgent action by the Board prior to the next regular meeting. Voting and discussion shall be limited to the subject matter which necessitated the call of the special meeting. All Board members shall be notified of the time, place, and exact purpose of the special meeting a reasonable time in advance.

(4) The Chair may reschedule a regular meeting of the Board to another date, no more than one month earlier or later than the regularly scheduled date.

(b) *Attendance.* (1) If a Board member is unable to attend a regularly scheduled meeting, he or she shall notify the Executive Director at his or her earliest convenience.

(2) A list of Board members present and those Board members absent shall become a part of the permanent record through its inclusion in the minutes.

(3) In order to maintain an orderly meeting, discussion shall be among Board members and the Executive Director. Board staff and Federal member staff may participate in the discussion of a specific issue only at the request of a Board member present at the meeting or the Executive Director, and upon recognition by the Chair.

(c) *Rules for Board meetings.* (1) Meetings of the Board shall be held in accordance with Robert's Rules of Order, except as otherwise prescribed herein.

(2) The Board shall not suspend the rules in taking an action concerning adoption, amendment or rescission of this Statement of Organization and Procedures nor the Board's Authorities and Delegations.

(d) *Quorum.* (1) A quorum shall be the majority (12) of the fixed membership. At least six of the members required for a quorum shall be public members.

(2) Proxies shall not be counted for purposes of establishing a quorum.

(3) The presiding officer shall not call a meeting to order unless a quorum is present. If at anytime during the meeting the Chair or a member notices the absence of a quorum, it shall be his or her duty to declare the fact. However, debate on a question pending may continue after a quorum is not longer present.

(4) In the absence of a quorum the Board members present may move to recess in order to contact absent members and solicit their attendance.

(e) *Voting procedure.* (1) Only Board members or Federal member designees, Executive Level IV or higher, may vote.

(2) Except as otherwise prescribed herein, at a meeting at which there is a quorum a majority vote of the members present in person or by proxy is necessary for action by the Board.

(3) The presiding officer shall have the same right to vote as any other member.

(4) *Proxy voting.* (i) Except as provided in § 1155.2 (d)(2) and (e)(4)(iv) of this section, proxy voting shall be permitted.

(ii) Any member may give his or her directed or undirected proxy to any other Board member or any Federal member designee, Executive Level IV or higher, present at the meeting.

(iii) Proxies are to be given in writing and submitted to the Chair prior to or at the meeting.

(iv) A directed proxy shall be voided as to a specific issue if the question on which the vote is eventually taken

differs from the question to which the proxy is directed.

(5) A requirement of a $\frac{2}{3}$ vote shall mean $\frac{2}{3}$ of the members present in person or by proxy, at a meeting at which there is a quorum, except as provided in §§ 1155.6(b), 1155.7 and 1155.8 of this part.

(f) *The order of business.* Except as otherwise prescribed herein, a proposal for Board action cannot be considered by the Board unless it is placed on the agenda by the Chair of the Board, with the approval of the Executive Committee.

(g) *The basic procedures.* (1) Any member wishing to submit a proposal for Board action will submit it directly to the Chair of the Board, by delivering copies of the proposal to the Board office, addressed to the Chair of the Board. Upon receiving a proposal from a Board member, the Chair may direct the Executive Director to forward copies of the proposal to appropriate subject matter committee(s) and/or the Executive Committee.

(2) Upon receipt of a proposal from a Board member, or a proposal originating from within a committee, subject matter committees will review the proposal, including determining whether the proposal is within their jurisdiction, and, if so, identifying the issues involved, and refining the proposal. Committees may request a report from staff or the member submitting the proposal. Each committee taking any action on the proposal will submit it with an accompanying report and recommendations to the Chair of the Board.

(3) The Chair may take action on a member's proposal without receiving a report from a subject matter committee when, after reviewing the proposal, he or she determines that the proposal does not need further development for Board consideration. The Chair's review may include requesting a report from staff or the member submitting the proposal, or calling a meeting of the Executive Committee.

(4) When the Chair of the Board receives a recommendation from the subject matter committee, the Chair will review the recommendation and take appropriate action thereon. This may result in placing the recommendation on the next Board agenda or sending it back to the subject matter committee or to another committee, for appropriate action.

(h) *Agenda.* Chair, with the approval of the Executive Committee, places items of business on the Board agenda. A written notice of ten (10) work days to the full Board is required for an item to become part of the Board's agenda. The

ten (10) days notice requirement may be waived upon a two-thirds vote by the Board to suspend the rules of order.

(i) *Discharge procedure.* Seventy-five (75) days after a proposal is first received by the Chair of the Board, any member has a right to discharge the proposal. For purposes of this paragraph, a proposal is received by the Chair the day it is delivered to the Chair at the Board office. In order to exercise a discharge, the discharging member must provide written notice to the Chair of the Board, the Executive Committee, appropriate subject matter committee(s) and the Executive Director thirty (30) days prior to the next Board meeting. Upon the Chair's receipt of a timely discharge notice, the proposal must be placed on the next regular Board agenda.

(j) *Request for legal opinion from the Department of Justice.* The Board may, by a majority vote, seek legal advice on any matter from the Office of Legal Counsel, United States Department of Justice. The Board shall not be bound by the opinion of the Office of Legal Counsel.

(k) *Corrections, additions, or approval of Board minutes.* (1) The Executive Director shall send draft minutes of the previous meeting to each Board member within fifty (50) days following the meeting. Any corrections shall be submitted in writing at or before the next Board meeting.

(2) The Board will approve the final minutes after all corrections and additions have been incorporated.

§ 1155.3 Committees.

The Board may, by a two-thirds vote, establish or dissolve standing committees, and change the number, size and jurisdiction of standing committees. Meetings of the committees shall be held in accordance with Robert's Rules of Order, except as otherwise prescribed herein. The use of proxies shall be prohibited at Executive and subject matter committee meetings except as otherwise prescribed herein. A Committee may establish its own additional procedures provided that they do not conflict with the provisions of this Statement, and the Committee informs the Chair of the Board in writing of any additional procedures.

(a) *Executive Committee—(1) Composition.* The Executive Committee shall be composed of six members, three Federal and three public members, which shall include the Chair and the Vice-Chair of the Board and the chairs of each of the two subject matter committees and two at large members. The two at large members shall balance

the number of federal and public members and shall be elected annually by the Board after the election of the Chair and Vice-Chair of the Board and the chairs of the two subject matter committees. Its chair shall be the Vice-Chair of the Board.

(2) *Quorum.* A quorum in the Executive Committee shall be one-third the actual committee membership. In the absence of a quorum, a meeting can be held only for the purpose of discussion and no vote may be taken.

(3) *Voting.* Only members of the committee may vote in the committee meetings. Any other Board member may attend and participate in the meeting, but may not vote.

(b) *Subject matter committees—(1) Composition.* Each subject matter committee shall be comprised of seven members. The Chair of each committee shall be elected annually by the Board. The Chair of the Board will appoint six additional members to each subject matter committee for a total of seven members in each. Each chair of each committee, may appoint an acting chair when the chair is absent.

(2) *Terms.* The members of each committee will serve a term of one year corresponding to that of the chair, and continue their duties until their successors have been appointed.

(3) *Quorum.* A quorum in a subject matter committee shall be four members, present in person or, in the case of Federal members, the liaison may represent the Federal member in subject matter committees for the limited purpose of establishing a quorum. In the absence of a quorum, a meeting may be held only for the purpose of discussion.

(4) *Voting.* Only committee members may vote in the committee meetings. Any other Board member, agency staff and the Board staff may attend and participate in meetings but may not vote.

(c) *Special committees.* The Chair, the Board, or a standing committee may appoint a special committee to carry out a specific task. A special committee shall dissolve upon completion of its task or when dissolved by its creator. A special committee shall be governed by the same rules and procedures applicable to subject matter committees unless otherwise prescribed.

(d) *Minutes.* Each Committee will keep a written record of the proceedings.

§ 1155.4 General Counsel.

(a) The General Counsel is nominated

by the Chair and confirmed by the Board. He or she is responsible to the Board under the supervision of the Executive Director.

(b) The General Counsel shall attend Board meetings and provide legal counsel when requested or when he or she deems it advisable and upon recognition by the Chair.

§ 1155.5 Fiscal accountability.

Board funds shall not substitute for resources an agency should spend for activities under its own research and development or other programmatic or administrative authority. However, the Board may augment current studies by additional funding to insure a focus for particular information on barriers confronting handicapped individuals.

§ 1155.6 Delegations.

(a) The Board may—

(1) By majority vote delegate to the Executive Committee authority to implement its decisions, and

(2) By two-thirds vote delegate to the Executive Committee any other of its authorities, to the extent permitted by law. A separate delegation is necessary for each action the Board desires the Executive Committee to implement.

(b) The Board may, to the extent permitted by law, delegate other duties to its officers, committees, or staff by a vote of two-thirds of the membership of the Board at the time the vote is taken.

(c) Unless so permitted in the original delegation, an officer, committee, or staff person shall not redelegate authority.

§ 1155.7 Amendments to the Statement of Organization and Procedures.

In order to adopt and amend the Statement of Organization and Procedures, a vote of two-thirds of the membership of the Board at the time the vote is taken shall be required.

§ 1155.8 Amendments to the Authorities and Delegations.

In order to adopt and amend the Authorities and Delegations, a vote of two-thirds membership of the Board at the time the vote is taken shall be required.

Thomas E. Harvey,
Vice Chair, Architectural and Transportation
Barriers Compliance Board.

[FR Doc. 88-12121 Filed 5-27-88; 8:45 am]

BILLING CODE 6820-SP-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations; Alabama et al.

AGENCY: Federal Insurance
Administration, Federal Emergency
Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule

that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Approximately 1,200 feet east of the corner of Sections 1, 2, 11, and 12 in Township 9S, Range 21W	# 1	Holly Creek: At confluence of Holly Creek Tributary # 1	*396
Approximately 1,200 feet east of Ken De Fortuna Drive	# 2	Approximately 1 mile upstream of confluence of Holly Creek Tributary # 3	*441
Approximately 2,500 feet west of Ken De Fortuna Drive	# 3	Holly Creek Tributary # 1: At confluence with Holly Creek	*396
Approximately 250 feet south of the corner of Sections 1, 2, 11, and 12 in Township 9S, Range 21W	# 4	At upstream County boundary	*401
Wash C: At the corner of Sections 11, 12, 13, and 14 in Township 9S, Range 21W	# 2	Holly Creek Tributary # 2: At confluence with Holly Creek	*407
At confluence with Fortuna Wash	# 3	Cassatof River: At Gilham Dam	*569
Maps available for review at the Yuma County Courthouse, 158 South Second Street, Yuma, Arizona		At Duckett Road	*569
ARKANSAS		Maps available for inspection at the Howard County Courthouse, Nashville, Arkansas.	
Cleburne County, (unincorporated areas) (FEMA Docket No. 6923)		Logan County, (unincorporated areas) (FEMA Docket No. 6923)	
Greens Ferry Lake: Entire length of shoreline	*492	Greasy Creek: At confluence with Petit Jean River	*456
Maps available for inspection at the County Courthouse, Heber Springs, Arkansas.		Approximately 163 feet upstream of the Chicago, Rock Island, and Pacific Railroad	*463
Horseshoe Bend (city), Izard, Sharp, and Fulton Counties (FEMA Docket No. 6923)		Booneville Creek: At confluence with Petit Jean River	*440
Diamond Branch: At confluence with Bens Creek	*642	Approximately 200 feet upstream of the County boundary	*443
Approximately 1.3 miles upstream from confluence with Bens Creek	*642	Booneville Creek Tributary # 1: At confluence with Booneville Creek	*441
Approximately 80 feet upstream of East Tri Lakes Drive	*652	At upstream County boundary	*445
Approximately 2.6 miles above confluence with Bens Creek	*714	Petit Jean River: At downstream County boundary	*424
Bens Creek: 100 feet downstream of Crown Lake Dam	*641	At confluence of Greasy Creek	*456
At approximately 3.4 miles above Crown Lake Dam	*642	Arkansas River: Approximately 1,200 feet downstream of the downstream County boundary	*341
At North Little Rock Road	*671	At upstream County boundary	*373
At confluence of Monark Branch	*719	Greasy Creek Tributary: At confluence with Greasy Creek	*456
Maps available for inspection at 1301 South Edgewater Road, Horseshoe Bend, Arkansas.		Delaware Creek: Approximately 925 feet downstream of downstream County boundary	*341
Howard County (unincorporated areas) (FEMA Docket No. 6923)		Approximately 2.8 miles upstream of State Route 22	*354
Saline River: At downstream County boundary	*287	Shoal Creek: At confluence with the Arkansas River	*348
Mine Creek: At confluence with Saline River	*287	Approximately 1 mile upstream of State Route 22	*371
Approximately 3.15 miles above confluence with Dillard Creek	*298	Little Shoal Creek: At confluence with Shoal Creek	*349
At downstream corporate limits of City of Nashville	*409	Approximately 4 mile upstream of State Route 22	*352
Approximately 1.7 miles upstream of corporate limits of City of Nashville	*451	Cane Creek: Approximately .3 mile downstream of State Route 197	*355
Town Creek: Approximately .4 mile downstream of confluence of Town Creek Tributary	*290	Approximately 105 feet upstream of State Route 109	*356
At upstream County boundary	*306	Maps available for inspection at the Logan County Courthouse, Booneville, Arkansas.	
Town Creek Tributary: Confluence with Town Creek	*293	White Hall (city), Jefferson County (FEMA Docket No. 6923)	
Upstream side of upstream crossing of Grayson, Nashville and Ashdown Railroad	*305	Caney Bayou: At Missouri Pacific Railroad	*223
Dillard Creek: At State Route 27	*310	At confluence of Caney Bayou Fork	*238
Approximately .6 mile upstream of State Route 27	*316	Caney Tributary No. 1: At downstream corporate limits	*229
Temperenceville Creek: At confluence with Mine Creek	*329	Approximately 1.45 miles downstream of confluence with Caney Bayou	*249
Approximately 79 feet upstream of State Route 27	*334	School Drain: 80 feet downstream of downstream corporate limits	*227
Mine Creek Tributary: Confluence with Mine Creek	*331	Approximately 100 feet upstream of Colonial Park Road	*246
Approximately .3 mile upstream of State Route 27	*361	Carter Creek: At confluence with School Drain	*231
Blue Bayou: Approximately .5 mile downstream of confluence of Blue Bayou Tributary # 1	*560	Approximately 900 feet downstream of State Route 365	*250
Approximately .3 mile upstream of State Route 26	*601	Approximately 130 feet upstream of State Route 365	*267
Center Point Creek: At confluence with Blue Bayou	*601	Caney Tributary No. 2: At downstream corporate limits	*237
At upstream County boundary	*639	Approximately 760 feet downstream of East Holland	*247
		Approximately 125 feet upstream of East Holland	*256
		Caney Bayou Fork: At confluence with Caney Bayou	*238

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
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ALABAMA

Choctaw County (unincorporated areas) (FEMA Docket No. 6923)	
Bogue Chitto River: About 700 feet downstream of State Highway 10	*138
About 0.8 mile upstream of County Highway G	*157
Wahalak Creek: Just downstream of confluence of Brook Creek	*96
About 1.0 mile upstream of confluence of Brook Creek	*106
Wahalak Creek Tributary No. 1: About 2,000 feet upstream of mouth	*94
About 3,650 feet upstream of mouth	*106
Brook Creek: At mouth	*97
About 1.6 miles upstream of mouth	*108
Pickett Creek: About 1,200 feet downstream of confluence of Pickett Creek Tributary No. 3	*117
Just upstream of confluence of Pickett Creek Tributary No. 3	*118
Pickett Creek Tributary No. 3: At mouth	*118
About 900 feet upstream of mouth	*121
Maps available for inspection at the County Courthouse, Butler, Alabama.	

ARIZONA

Yuma County (unincorporated areas) (FEMA Docket No. 6923)	
Wash A: Approximately 2,500 feet west of the intersection of Ken De Fortuna Drive and Annett De Fortuna Avenue	# 2
Approximately 1,000 feet downstream of Ken De Fortuna Drive	# 3
Approximately 3,600 feet north of Annett De Fortuna Avenue along Ken De Fortuna Drive	# 6
Wash B:	

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Approximately 1,000 feet upstream of U.S. Route 65.....	*280	Long Canyon: Approximately 2,400 feet southeast of the intersection of Hacienda Avenue and Deodar Avenue.....	#4	Stream A (vicinity of Desert Hot Springs): Approximately 3,200 feet downstream from Colorado River Aqueduct.....	#1
Approximately 80 feet upstream of corporate limits.....	*302	Maps are available for review at the City Planning Department, 11-711 West Drive, Desert Hot Springs, California.		San Jacinto River: At intersection of Ellis Avenue and Trumble Road.....	*1,420
Oakland Heights Creek:		Redlands, (city), San Bernardino County (FEMA Docket No. 6923)		Lakeview Wash:	
At confluence with Caney Bayou Fork.....	*247			At intersection of Pomona Expressway and Hansen Avenue.....	#1
At confluence with Oakland Heights Tributary.....	*265			At intersection of Wolfskill and Hansen Avenues.....	#2
Approximately 160 feet upstream of corporate limits.....	*275			Bautista Wash:	
Park Creek:				Approximately 2,700 feet downstream of Cottonwood Creek Avenue.....	*1,498
At confluence with Oakland Heights Creek.....	*250	San Timoteo Creek:		At Santa Fe Street Crossing.....	*1,546
Approximately 100 feet upstream of Parkway Drive.....	*280	Just upstream of Timoteo Canyon Road bridge.....	*1,299	Undefined Wash: Approximately 500 feet southwest of the intersection of Washington Avenue and Meridian Street.....	#1
Approximately 130 feet upstream of Cooper Street.....	*300	1,900 feet upstream of San Timoteo Canyon Road Ridge.....	*1,320	Interstate 10 Wash:	
Oakland Heights Tributary:		5,000 feet upstream of San Timoteo Canyon Road bridge.....	*1,358	Approximately 900 feet northeast of Interstate Highway 10 and Date Palm Drive.....	#2
At confluence with Oakland Heights Creek.....	*265	2,300 feet downstream of corporate limits.....	*1,391	At intersection of Varner Road and Date Palm Drive.....	#4
.45 mile upstream of confluence with Oakland Heights Creek.....	*275	At upstream corporate limits.....	*1,418	Thousand Palms Tributary A:	
Henslee Creek:		Morey Wash: At Alabama Street.....	#1	At intersection of Varner Road and Rio Del Sol.....	#1
At the Union Pacific Railroad.....	*222	The Zanja:		Approximately 9,200 feet north along Rio Del Sol from intersection with Varner Road.....	#2
Approximately 260 feet upstream of Cherry Avenue.....	*253	Upstream of Texas Street.....	#1	Thousand Palms Tributary B:	
Gamble Creek:		At Tennessee Street.....	#2	Approximately 4,000 feet north of intersection of 30th Avenue and Montevista Way.....	#1
At downstream corporate limits.....	*261	Maps are available for review at City Hall, Building and Safety Department, 30 Cajon Street, Redlands, California.		Approximately 7,700 feet northwest of intersection of 30th Avenue and Montevista Way.....	#2
Approximately 580 feet upstream of upstream corporate limits.....	*275	Riverside County (unincorporated areas) (FEMA Docket No. 6903)		Thousand Palms Tributary C:	
Industrial Creek: Approximately 0.3 mile east of the abandoned railroad crossing of U.S. Route 65.....	*263	Edgemont B North Fork: 700 feet west along Eucalyptus Avenue from intersection with Day Street.....	*1,549	At intersection of Desert Moon Drive and Ramon Road.....	#1
Maps available for inspection at the City Hall, White Hall, Arkansas.		Big Morongo Wash:		Approximately 6,500 feet north of intersection of Calita Bell and Calle Helena Roads.....	#2
CALIFORNIA		At intersection of Indian and Western Avenues.....	#1	Approximately 1,000 feet east of point on Sierra Del Sol that is 2.3 miles north of Ramon Road.....	#3
Desert Hot Springs (city), Riverside County (FEMA Docket No. 6696)		At intersection of Mission Lakes Boulevard and Indian Avenue.....	#3	Thousand Palms Tributary D:	
Desert Hot Springs Channel:		Little Morongo Wash: Approximately 300 feet west of the intersection of Oakmount Boulevard and Leith Avenue.....	#5	Approximately 4,150 feet east of intersection of Ramon Road and Desert Moon Drive.....	#1
Approximately 2,575 feet downstream of Cholla Drive.....	*1,112	Mission Creek:		Approximately 11,500 feet northeast of intersection of Kubic and Ramon Roads.....	#2
Approximately 225 feet downstream of West Drive.....	*1,158	At intersection of Kay Road and 14th Avenue.....	#1	Thousand Palms Canyon:	
At the confluence with Blind Canyon Channel.....	*1,297	At intersection of Pierson Boulevard and Indian Avenue.....	#2	Approximately 1,000 feet north of intersection of Interstate Highway 10 and Washington Street.....	#2
Approximately 410 feet upstream of Verbera Drive.....	*1,347	Pushawalla Canyon:		At the southern terminus of Thousand Palms Road.....	#3
Blind Canyon Channel:		Approximately 3 miles north along Washington Street from intersection with Interstate Highway 10.....	#3	Approximately 2,112 feet north along Thousand Palms Road from intersection with Ramon Road.....	#4
At confluence with Desert Hot Springs Channel.....	*1,297	At northeast corner of Section 24, Range 6 East, Township 4 South.....	#4	Pechanga Creek:	
Approximately 1,045 feet upstream of Casa Grande Drive.....	*1,521	West Macomber Palms Channel: At northeast corner of Section 30 Range 7 East, Township 4 South.....	#2	Approximately 200 feet upstream of confluence with Temecula Creek.....	*967
Big Morongo Wash:		Macomber Palms Channel:		At Via Gilberto Extended.....	*1,063
Approximately 1,000 feet northeast of the intersection of Little Morongo Road and San Jacinto Lane.....	#1	At northeast corner of Section 32, Range 7 East, Township 4 South.....	#1	North Side Wolf Valley:	
Approximately 2,000 feet southwest of the intersection of Little Morongo Road and Mission Lakes Boulevard.....	#1	Approximately 1,000 feet north of northeast corner of Section 32, Range 7 East, Township 4 South.....	#2	Approximately 800 feet upstream of confluence with Temecula Creek.....	*1,010
At the intersection of Cholla Drive and Ironwood Drive.....	#2	Biskra Palms Channel: At northeast corner of northwest quarter of Section 33, Range 7 East, Township 4 South.....	#1	Approximately 200 feet north of intersection of Pala and Pechanga Roads.....	*1,144
Approximately 2,000 feet west of the intersection of Pierson Boulevard and Cholla Drive.....	#2	McVicker Canyon: Approximately 100 feet south of southeast corner of the southwest quarter of Section 34, Range 5 West, Township 6 South.....	#1	Park Hill Drain:	
Approximately 1,000 feet west of the intersection of Cholla Drive and Twobunch Palms Trail.....	#3	Ortega Wash: At northeast corner of northwest quarter of northwest quarter of Section 14, Range 5 West, Township 6 South.....	#1	Approximately 400 feet north on Santa Fe Street from intersection with Midway Street.....	*1,565
At the intersection of Eighth Street and Little Morongo Road.....	#3	Lake Elsinore: Approximately 200 feet northeast along Russell Street from intersection with Grand Avenue.....	*1,267	On south side of Devonshire Avenue, 500 feet east of intersection with Yale Street.....	*1,640
Approximately 1,200 feet southwest of the intersection of Little Morongo Road and Mission Lakes Boulevard.....	#3	Tripalms East Tributary: At intersection of Barcelona and Laura Drives.....	#1	Salt Creek:	
Approximately 1,300 feet west of the intersection of Little Morongo Road and Mission Lakes Boulevard.....	#4	Blind Canyon Channel:		On Atchison, Topeka and Santa Fe Railway approximately 1,500 feet east-northeast of California Avenue.....	*1,494
Little Morongo Wash: Approximately 4,200 feet north of the intersection of Little Morongo Road and Mission Lakes Boulevard.....	#4	Approximately 1,650 feet downstream of Colorado River Aqueduct.....	*1,487	Approximately 1,000 feet upstream of Cawston Avenue.....	*1,522
Mission Creek: At the intersection of 15th Avenue and Little Morongo Road.....	#1	Approximately 1,200 feet downstream of Colorado River Aqueduct.....	*1,521	Perris Valley Storm Drain: Just upstream of Nuevo Road.....	*1,423
Unnamed Stream A: At the intersection of San Ardo Road and Pomelo.....	#1	Long Canyon:		Maps are available for review at Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California.	
Unnamed Stream B:		At intersection of 18th Avenue and Bubbling Wells Road.....	#1	Sacramento County (unincorporated areas) (FEMA Docket No. 6914)	
Approximately 500 feet east of the intersection of Pierson Boulevard and Sumac Drive.....	#1	At intersection of Far View Road and Rosemont Avenue.....	#2	Morrison Creek:	
Approximately 1,000 feet north of the intersection of Pierson Boulevard and Miracle Hill Road.....	#2	At intersection of Buena Vista Boulevard and Long Canyon Road.....	#4	At Interstate Highway 5.....	*14
Unnamed Stream C: Approximately 200 feet south of the intersection of Skyline Drive and Fernwood Drive.....	#1	Approximately 6,000 feet down canyon from Colorado River Aqueduct.....	#5	Just upstream of Elk Grove-Florin Road.....	*46
				Just downstream of Kiefer Boulevard.....	*75
				Approximately 200 feet downstream of Mather Boulevard.....	*85

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Florin Creek:		Steamboat Slough:		Approximately 140 feet downstream of U.S. Highway 36.....	*5,289
Just upstream of Center Parkway.....	*20	Approximately 5,000 feet upstream of the southwestern tip of Grand Island.....	*9	Just upstream of Wadsworth Boulevard.....	*5,358
Just downstream of Stockton Boulevard.....	*26	At State Highway 220 Extended.....	*12	Approximately 320 feet downstream of the Stordley Lake Dam Principal Spillway.....	*5,392
Just upstream of McCombar Street.....	*36	At State Highway 160, just downstream of the confluence with Sacramento River.....	*16	Tanglewood Creek:	
At Florin-Perkins Road.....	*37	Threemile and Sevenmile Sloughs: At the confluence of these two sloughs.....	*7	Approximately 350 feet upstream of Interstate 25.....	*5,183
Elder Creek:		Maps are available for review at the Sacramento County Department of Public Works, 827 Seventh Street, Sacramento, California.		Just upstream of West 128th Avenue.....	*5,230
Just upstream of State Highway 99.....	*23			Approximately 900 feet downstream of West 121st Avenue.....	*5,310
Just upstream of Elk Grove-Florin Road.....	*45			Approximately 475 feet upstream of West 121st Avenue.....	*5,340
Just upstream of Bradshaw Road.....	*60			Ranch Creek:	
Just upstream of Excelsior Road.....	*90			Approximately 300 feet upstream of confluence with Big Dry Creek.....	*5,209
Approximately 1,500 feet upstream of Excelsior Road.....	*92			Approximately 40 feet downstream of Jackson Lake Dam.....	*5,293
Gerber Creek:		COLORADO		Approximately 150 feet downstream of Quivas Way.....	*5,325
Approximately 1,000 feet downstream of Passalis Lane.....	*46	Sawpit (town), San Miguel County (FEMA Docket No. 6923)		Approximately 160 feet downstream of Huron Street.....	*5,369
Just downstream of Central California Traction Railroad.....	*52	San Miguel River:		Downstream of Jackson Lake.....	#1
Upstream of Gerber Road 300 feet east of Vineyard Road intersection.....	*73	Approximately 145 feet upstream of western corporate limits.....	*7,530	South Branch Ranch Creek:	
Unionhouse Creek:		Approximately 300 feet upstream of western corporate limits.....	*7,535	At confluence with Jackson Lake.....	*5,301
Just upstream of Stockton Boulevard.....	*26	Approximately 280 feet downstream of eastern corporate limits.....	*7,545	Approximately 150 feet downstream of 112th Avenue.....	*5,354
Approximately 1,200 feet upstream of Elk Grove-Florin Road.....	*43			Walnut Creek:	
Strawberry Creek:		Maps are available for review at the San Miguel County Planning Office, 305 Western Colorado Avenue, Telluride, Colorado.		At confluence with Countryside Creek.....	*5,346
Approximately 250 feet upstream of the confluence with Unionhouse Creek.....	*21			Approximately 550 feet upstream of confluence with Countryside Creek.....	*5,350
Just upstream of State Highway 99.....	*26			Approximately 75 feet upstream of West 108th Avenue.....	*5,411
Just upstream of Southern Pacific Railroad.....	*35			Approximately 60 feet downstream of Simms Street.....	*5,469
Approximately 1,310 feet upstream of Southern Pacific Railroad.....	*37	Teller County (unincorporated areas) (FEMA Docket No. 6906)		North Branch Walnut Creek:	
North Fork Laguna Creek:		Fountain Creek:		Approximately 30 feet upstream of confluence with Walnut Creek.....	*5,430
Just upstream of Bruceville Road.....	*24	Approximately 1,220 feet downstream of Creekside Drive (at Teller County and El Paso County line).....	*7,898	Approximately 950 feet downstream of Simms Street.....	*5,465
Approximately 120 feet downstream of Stockton Boulevard.....	*30	Just upstream of Woodland Avenue.....	*8,125	Countryside Creek:	
Approximately 3,100 feet upstream of State Highway 99.....	*34	Teller County and Town of Woodland Park corporate limits.....	*8,222	At confluence with Walnut Creek.....	*5,346
Laguna Creek:		Approximately 40 feet downstream of Teller County and Town of Woodland Park corporate limits.....	*8,339	Approximately 1,880 feet upstream of Wadsworth Boulevard.....	*5,374
At Western Pacific Railroad.....	*14	East Fork Fountain Creek:		Approximately 230 feet downstream of Oak Street.....	*5,428
Just upstream of State Highway 99.....	*31	At downstream corporate limits (Teller County and Town of Woodland Park).....	*8,313	Nissen Reservoir Channel:	
Just downstream of Vineyard Road.....	*67	At upstream corporate limits (Teller County and Town of Woodland Park).....	*8,344	At confluence with Big Dry Creek.....	*5,212
Just downstream of Excelsior Road.....	*83	Loy Gulch:		Approximately 40 feet downstream of Lowell Boulevard.....	*5,236
Laguna Creek Tributary 1:		At confluence with Trout Creek.....	*8,165	City Park Channel:	
Approximately 1,500 feet upstream of the confluence with Laguna Creek.....	*50	At downstream corporate limits (Teller County and Town of Woodland Park).....	*8,267	Approximately 80 feet upstream of 120th Avenue.....	*5,243
Just upstream of Bader Road.....	*59	Trout Creek:		Approximately 520 feet upstream of Sheridan Boulevard.....	*5,287
Approximately 100 feet upstream of Excelsior Road.....	*70	At confluence with Mule Creek.....	*8,085	Southwest of intersection of Frontage Road and Sheridan Boulevard.....	#1
Whitehouse Creek:		At confluence with Loy Gulch.....	*8,238	North Cotton Creek:	
At the confluence with Laguna Creek.....	*26	Approximately 4,890 feet upstream of the confluence of Loy Gulch.....	*8,429	Approximately 320 feet upstream of Vrain Street.....	*5,248
Just upstream of State Highway 99.....	*30	Lovell Gulch:		Approximately 600 feet upstream of Stuart Street.....	*5,291
Just upstream of Campbell Road.....	*45	At confluence with Loy Gulch.....	*8,261	Approximately 2,330 feet upstream of Stuart Street.....	*5,329
Approximately 1,300 feet upstream of Campbell Road.....	*46	Just upstream of Downstream corporate limits (Teller County and Town of Woodland Park).....	*8,338	Middle Cotton Creek:	
Elk Grove Creek:		Approximately 625 feet upstream of Main Street.....	*8,435	Approximately 650 feet downstream of Cotton Creek Drive (downstream crossing).....	*5,248
Just upstream of Elk Grove-Florin Road.....	*39	Maps are available for review at the Teller County Planning Director's Office, County Planning Department, 220 South Street, Woodland Park, Colorado 80866.		Approximately 600 feet downstream of Cotton Creek Drive (upstream crossing).....	*5,336
Just upstream of Waterson Road.....	*47	Westminster (city), Adams and Jefferson Counties (FEMA Docket No. 6920)		Approximately 1,670 feet upstream of Cotton Creek Drive (upstream crossing).....	*5,400
Sacramento River:		Big Dry Creek:		South Cotton Creek:	
At the intersection of Victory Highway and Emmon Road on Sherman Island (RD 341).....	*7	Approximately 60 feet upstream of Interstate 25.....	*5,162	At confluence with Big Dry Creek.....	*5,250
At the City of Isleton southern corporate limits.....	*9	Approximately 50 feet downstream of Huron Street.....	*5,167	Approximately 1,770 feet upstream of confluence with Big Dry Creek.....	*5,299
At the confluence with Delta Cross Channel.....	*14	Approximately 20 feet upstream of West 128th Avenue.....	*5,190	Airport Creek:	
At Interstate Highway 80.....	*30	Approximately 200 feet downstream of confluence with with Ranch Creek.....	*5,208	Approximately 900 feet upstream of confluence with Big Dry Creek.....	*5,262
Georgiana Slough:		Just upstream of 112th Avenue.....	*5,247	Approximately 60 feet upstream of 112th Avenue.....	*5,288
At the confluence with Mokelumne River.....	*7	Approximately 10 feet downstream of Sheridan Boulevard.....	*5,253	Approximately 1,100 feet downstream of Kendall Street.....	*5,295
Just upstream of Southern Pacific Railroad.....	*10	Approximately 650 feet upstream of confluence with North City Park Creek.....	*5,264	At face downstream of Pierce Street.....	*5,329
Approximately 900 feet downstream of Walnut Grove-Thorton Road Extended.....	*13			West of Sheridan Boulevard along 112th Avenue.....	#1
North Fork Mokelumne River:				North City Park Creek:	
At the intersection of Southern Pacific Railroad and Brunk Road on Tyler Island (RD 563).....	*7			Approximately 260 feet upstream of the confluence with Big Dry Creek.....	*5,263
At Walnut Grove Thorton Road Extended.....	*12				
At the confluence of Dead Horse Cut.....	*15				
Mokelumne River:					
Approximately 600 feet upstream of the confluence with Dead Horse Cut.....	*15				
Just upstream of New Hope Road.....	*24				
Snodgrass Slough:					
At the confluence with North Fork Mokelumne River.....	*12				
At Southern Pacific Railroad.....	*15				
Delta Cross Channel: On the east side of Southern Pacific Railroad.....	*15				
Sutter Slough:					
At the confluence with Steamboat Slough.....	*13				
Approximately 4,000 feet upstream of Sutter Island Cross Road Extended.....	*16				

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Approximately 150 feet upstream of Sheridan Boulevard.....	*5,315	Approximately 0.22 mile upstream of Filley Street.....	*95	<i>Little Dam Tavern Brook:</i>	
Approximately 1,300 feet upstream of Sheridan Boulevard.....	*5,360	<i>Tumbledown Brook:</i>		At confluence with Quinebaug River.....	*293
<i>South City Park Creek:</i>		At confluence with Wash Brook.....	*116	Upstream side of State Route 52.....	*338
At confluence with Big Dry Creek.....	*5,267	Upstream side of Simsbury Road.....	*133	Approximately 2,000 feet upstream of State Route 21.....	*400
Approximately 250 feet upstream of confluence with Big Dry Creek.....	*5,277	Approximately 300 feet upstream of Mountain Avenue.....	*185	<i>Mary Brown Brook:</i>	
Approximately 80 feet downstream of Sheridan Boulevard.....	*5,330	Approximately 0.24 mile upstream of Mountain Avenue.....	*212	At confluence with Fivemile River.....	*380
<i>North Branch Hylands Creek:</i>		<i>Tributary A:</i>		Upstream side of Mary Brown Pond Dam.....	*449
Approximately at confluence with Middle Branch Hylands Creek.....	*5,319	At confluence with Wash Brook.....	*126	At upstream corporate limits.....	*498
Approximately 2,500 feet downstream of 104th Avenue.....	*5,410	Approximately 400 feet downstream of West Newberry Road.....	*155	Maps available for inspection at the Town Clerk's Office, Town Hall, Putnam, Connecticut.	
Approximately 350 feet downstream of 104th Avenue.....	*5,455	<i>Tributary B:</i>		FLORIDA	
<i>Middle Branch Hylands Creek:</i>		At confluence with Tributary A.....	*136	Fernandina Beach (city), Nassau County (FEMA Docket No. 6923)	
Approximately 40 feet upstream of confluence with South Branch Hylands Creek.....	*5,296	<i>Tributary C:</i>		<i>Atlantic Ocean:</i>	
Just upstream of Sheridan Boulevard.....	*5,338	At confluence with Tributary A.....	*139	About 500 feet west of intersection of Jean Lofite Avenue and State Road A1A.....	*10
Approximately 50 feet upstream of East 101st Avenue.....	*5,411	<i>Tributary D:</i>		About 300 feet east of the intersection of 3rd Street and Ocean Avenue.....	*16
Approximately 1,170 feet upstream of Lowell Boulevard.....	*5,526	At confluence with Beamans Brook.....	*91	Maps available for inspection at the City Manager's Office, City Hall, Fernandina Beach, Florida.	
<i>South Branch Hylands Creek:</i>		Approximately 200 feet downstream of Blue Hills Flood Water Retarding Dam.....	*93		
At confluence with Big Dry Creek.....	*5,279	<i>Tributary to Tumbledown Brook:</i>		St. Augustine Beach (town), St. Johns County (FEMA Docket No. 6920)	
Approximately 200 feet west of intersection of Eaton Street and 102nd Place.....	*5,316	At confluence with Tumbledown Brook.....	*117	<i>Atlantic Ocean:</i>	
Approximately 150 feet downstream of Sheridan Boulevard.....	*5,366	Approximately 700 feet upstream of Mountain Avenue.....	*133	About 1,000 feet southeast of intersection of 16th Street and State Route A1A.....	*9
<i>Tributary B Little Dry Creek:</i>		<i>Tumbledown Brook Channel:</i>		About 1,000 feet east of the intersection of Ocean Avenue and F Street.....	*14
Approximately 100 feet upstream of Wadsworth Boulevard.....	*5,456	At confluence with Tumbledown Brook.....	*133	Maps available for inspection at the City Manager's Office, City Hall, 2110 A1A South, St. Augustine Beach, Florida.	
Approximately 1,300 feet upstream of Allison Street.....	*5,481	Approximately 0.29 mile upstream of Burr Road.....	*194		
Maps are available for review at the City Engineer's Office, 3031 West 76th Avenue, Westminster, Colorado.		<i>Tributary to North Branch of the Park River:</i>		GEORGIA	
		Approximately 1.0 mile upstream of downstream corporate limits.....	*101	Brantley County (unincorporated areas) (FEMA Docket No. 6923)	
		<i>Mill Brook:</i>		<i>Little Buffalo Creek:</i>	
		At confluence with Barbers Pond.....	*118	At mouth.....	*36
		Approximately 1.08 miles upstream of Old Iron Ore Road.....	*168	At confluence with Little Buffalo Creek Tributary.....	*60
		<i>Griffin Brook:</i>		<i>Little Buffalo Creek Tributary:</i>	
		At confluence with Farmington River.....	*112	At mouth.....	*60
		Approximately 0.57 mile upstream of Terry Plains Road.....	*184	At county boundary.....	*77
		<i>Filley Brook:</i>		<i>Tributary No. 1:</i>	
		At confluence with Wash Brook.....	*85	At mouth.....	*33
		Approximately 0.18 mile upstream of Park Avenue.....	*100	Just downstream of U.S. Route 64.....	*78
		Maps available for inspection at the Town Engineer's Office, Bloomfield, Connecticut.		<i>Tributary A:</i>	
				At mouth.....	*56
				About 1,000 feet upstream of Road L.....	*65
		Canaan (town), Litchfield County (FEMA Docket No. 6950)		<i>Satilla River:</i>	
		<i>Housatonic River:</i>		Just upstream of CSX railroad.....	*38
		Downstream corporate limits.....	*542	At county boundary.....	*84
		Upstream corporate limits.....	*645	<i>Buffalo Creek:</i>	
		<i>Hollenbeck River:</i>		About 1,800 feet downstream of County Route 92.....	*24
		At downstream corporate limits.....	*642	Just downstream of CSX railroad.....	*41
		At confluence of Wangum Lake Brook.....	*650	<i>Tributary B:</i>	
		At Route 63 (1st stream crossing).....	*661	At mouth.....	*59
		At Route 63 (2nd stream crossing).....	*727	Just downstream of U.S. Route 84.....	*60
		At Hollenbeck Dam.....	*805	Maps available for inspection at the Community Office, Brantley County Courthouse, Nahant, Georgia.	
		At upstream corporate limits.....	*839		
		<i>Wangum Lake Brook:</i>		Camden County (unincorporated areas) (FEMA Docket No. 6923)	
		At confluence with Hollenbeck River.....	*650	<i>Atlantic Ocean:</i>	
		At approximately 150 feet upstream from Under Mountain Road.....	*690	About 5,000 feet east of the confluence of Satilla River and Dover Creek.....	*20
		Maps available for inspection at the Town Clerk's Vault, Falls Village, Connecticut.		Just west of CSX bridge over Catfish Creek.....	*8
				Maps available for inspection at the Planning and Building Department, Camden County Branch Office, Highway 40 and Gross Road, Kingsland, Georgia.	
		Putnam (town), Windham County (FEMA Docket No. 6923)			
		<i>Quinebaug River:</i>		Centerville (city), Houston County (FEMA Docket No. 6923)	
		At downstream corporate limits.....	*215	<i>Bay Gall Creek:</i>	
		Downstream side of Bridge Street.....	*257	Just upstream of Elberta Road.....	*371
		At upstream corporate limits.....	*293	About 2,600 feet upstream of Pine Glen.....	*383
		<i>Little River:</i>		<i>Tributary No. 2:</i>	
		At confluence with Quinebaug River.....	*231	At mouth.....	*372
		Approximately 1,000 feet upstream of corporate limits.....	*271		
		<i>Cady Brook:</i>			
		Confluence with Fivemile River.....	*370		
		Upstream side of Cady Pond Dam.....	*424		
		At upstream corporate limits.....	*445		
		<i>Fivemile River:</i>			
		At downstream corporate limits.....	*366		
		At upstream corporate limits.....	*387		

Source of flooding and location	# Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Eleva- tion in feet (NGVD)
About 2,000 feet upstream of Manote Drive.....	*397	Just upstream of Georgia Street.....	*266	Maps are available for inspection at the City Hall, Soda Springs Idaho.	
Maps available for inspection at the City Clerk's Office, City Hall, 500 Houston Lake Boulevard, Centerville, Georgia.		<i>Swift Creek Tributary No. 1A:</i>		ILLINOIS	
		At mouth.....	*202	Elkhart (village), Logan County (FEMA Docket No. 6920)	
		Just downstream of North Street.....	*243		
		Just upstream of North Street.....	*249		
		About 600 feet upstream of North Street.....	*249	<i>Elkhart Slough:</i>	
Jekyll Island State Park Authority, Glynn County (FEMA Docket No. 6923)		<i>Swift Creek Tributary No. 2:</i>		About 800 feet downstream of Interstate 55.....	*586
<i>Atlantic Ocean:</i>		About 300 feet upstream of Thompson Pond Road.....	*198	About 1.0 mile upstream of Interstate 55.....	*590
About 2,000 feet north of the intersection of South Beachview Drive and Morgan.....	*12	About 1,750 feet upstream of Thompson Pond Road.....	*204	Maps available for inspection at the Logan County Planning Office, County Highway Department Building, 529 South McLean, Lincoln, Illinois.	
About 600 feet east of the intersection of Major Horton Road and North Beachview Drive.....	*21	Maps available for inspection at the City Hall, Vidalia, Georgia.			
Maps available for inspection at the Office of the Director of Services and Development, 375 Riverview Drive, Jekyll Island, Georgia.				Village of Greenview, Menard County (FEMA Docket No. 6920)	
		Wayne County (unincorporated areas) (FEMA Docket No. 6923)		<i>Grove Creek:</i>	
Kingsland (city), Camden County (FEMA Docket No. 6923)		<i>Boggy Creek:</i>		About 1,000 feet downstream of Illinois Central Gulf Railroad.....	*520
<i>Atlantic Ocean.</i>		Just upstream of State Route 99.....	*104	About 2,500 feet upstream of County Route 1.....	*533
Along Little Catfish Creek about 0.45 mile downstream of Clark Bluff Road.....	*8	Just downstream of dam.....	*106	Maps available for inspection at the Post Office, Greenview, Illinois.	
Along Miller Branch about 2,000 feet south southwest of the intersection of Kingsland-St. Marys Road and County Route 78.....	*9	Just downstream of County Road 388.....	*116		
Maps available for inspection at the Building Inspector's Office, City Hall, Kingsland, Georgia.		<i>Coleman Branch:</i>		Iroquois County (unincorporated areas) (FEMA Docket No. 6923)	
		About 3,200 feet downstream of Norfolk Southern Railway.....	*66	<i>Iroquois River:</i>	
		Just upstream of County Road 312.....	*88	Just downstream of Iroquois and Kankakee County Boundary.....	*618
St. Marys (city), Camden County (FEMA Docket No. 6923)		<i>Coleman Branch Tributary:</i>		About 2.3 miles upstream of Union Pacific railroad.....	*632
<i>Atlantic Ocean/St. Marys River:</i>		At mouth.....	*82	<i>Sugar Creek:</i>	
About 3,000 feet east of intersection of Ready Street and Weed Street.....	*13	Just upstream of County Road 3.....	*91	At confluence with Iroquois River.....	*630
At the intersection of Bartlett Street and Hall Street.....	*10	<i>Little McMillan Creek:</i>		About 3,000 feet upstream of CSX railroad.....	*651
Maps available for inspection at the Planning and Building Inspection Department, City Hall, 412 Osborne Street, St. Marys, Georgia.		About 0.95 mile upstream of mouth.....	*43	<i>Pigeon Creek:</i>	
		About 2,870 feet upstream of Bethlehem Road.....	*49	About 300 feet downstream of 1300 East Road.....	*660
		Maps available for inspection at the County Commissioners' Office, Wayne County Courthouse, Jesup, Georgia.		Just upstream of Second Street.....	*664
		Woodbine (city), Camden County (FEMA Docket No. 6923)		<i>Pigeon Creek Tributary No. 1:</i>	
<i>Atlantic Ocean:</i>		At intersection of Georgia Avenue and 8th Street.....	*11	At confluence of Pigeon Creek.....	*664
Maps available for inspection at the City Manager's Office, City Hall, Woodbine, Georgia.		IDAHO		About 500 feet upstream of West Street.....	*665
		Mountain Home (city), Elmore County (FEMA Docket No. 6923)		Maps available for inspection at the planning and Zoning Department, County Courthouse, 550 South 10th Street, Watseka, Illinois.	
<i>Rocky Creek:</i>		<i>Rattlesnake Creek:</i>			
About 1.3 miles downstream of Norfolk Southern Railway.....	*188	Approximately 100 feet upstream of Twelfth South Street along Profile Baseline.....	*3,122	Logan County (unincorporated areas) (FEMA Docket No. 6920)	
Just downstream of the Norfolk Southern Railway.....	*196	Approximately 100 feet downstream of Sixth South Street along the Profile Baseline.....	*3,130	<i>Salt Creek:</i>	
Just upstream of the Norfolk Southern Railway.....	*207	Approximately 2,900 feet upstream of Eighth North Street at the northern corporate limits.....	*3,171	Just upstream of Interstate 55.....	*554
About 1.0 mile upstream of Adams Street.....	*215	Maps are available for inspection at the City Hall, 160 South 3rd East, Mountain Home, Idaho.		At confluence of Lake Fork.....	*564
<i>Rocky Creek Tributary No. 1:</i>				About 3.3 miles downstream of County Route 6.....	*600
About 2,000 feet downstream of North Maple Drive.....	*207	Soda Springs (city), Caribou County (FEMA Docket No. 6923)		Just upstream of County Route 6.....	*608
Just upstream of Meadows Lane.....	*248	<i>Soda Creek:</i>		<i>Kickapoo Creek:</i>	
<i>Rocky Creek Tributary No. 1A:</i>		Approximately 3,300 feet downstream of North Main Street.....	*5,736	Just upstream of State Route 10.....	*556
At mouth.....	*213	At First North Street.....	*5,762	Just downstream of Illinois Central Railroad (upstream crossing).....	*594
Just upstream of Harris Industrial Boulevard.....	*220	Approximately 1,050 feet upstream of First East Street.....	*5,789	<i>Brainard Branch:</i>	
<i>Rocky Creek Tributary No. 2:</i>		<i>Little Spring Creek:</i>		At mouth.....	*565
About 450 feet downstream of Clydette Boulevard.....	*197	Approximately 700 feet upstream of confluence with Big Spring Creek.....	*5,737	About 0.86 mile upstream of U.S. Route 66 (upstream crossing).....	*579
Just downstream of dam.....	*242	At Fourth South Street.....	*5,752	<i>Elkhart Slough:</i>	
About 1,800 feet upstream of dam.....	*253	Approximately 500 feet upstream of Third South Street.....		Just downstream of Interstate 55.....	*586
<i>Rocky Creek Tributary No. 3:</i>		Approximately 100 feet upstream of Union Pacific Railroad.....	*5,795	About 1.0 mile upstream of Interstate 55.....	*590
At mouth.....	*207	Approximately 1,025 feet upstream of Hooper Avenue.....	*5,802	<i>Salt Springs Branch:</i>	
Just downstream of CSX railroad.....	*258	<i>Ledger Creek:</i>		At mouth.....	*560
Just upstream of CSX railroad.....	*254	At U.S. Route 30.....	*5,838	About 0.47 mile upstream of Illinois Central Gulf Railroad (upstream crossing).....	*571
<i>Rocky Creek Tributary No. 3A:</i>		At County Road (Approximately 2,200 feet upstream of U.S. Route 30).....	*5,838	Maps available for inspection at the Lincoln County Planning Office, County Highway Department Building, 529 South McLean, Lincoln, Illinois.	
At mouth.....	*228	Approximately 1,600 feet downstream of Pioneer Drive.....	*5,881		
Just downstream of Seventh Street.....	*235	At Pioneer Drive.....	*5,901	Maywood (village), Cook County (FEMA Docket No. 6923)	
Just upstream of Seventh Street.....	*240			<i>Silver Creek: Within community.....</i>	*621
<i>Rocky Creek Tributary No. 4:</i>				<i>Des Plaines River:</i>	
At mouth.....	*207			Just upstream of Eisenhower Expressway.....	*618
Just downstream of Dam No. 1.....	*234			About 600 feet upstream of confluence of Silver Creek.....	*621
About 1,300 feet upstream of Dam No. 1.....	*244			Maps available for inspection at the Office of Community Development, Public Works Building, 20 Madison Street, Maywood, Illinois.	
<i>Little Rocky Creek Tributary:</i>					
Just upstream of Ezra Taylor Road.....	*222				
Just downstream of dam.....	*245				
About 1,450 feet upstream of dam.....	*252				
<i>Swift Creek:</i>					
About 1.0 mile downstream of Old Swainsboro Road.....	*178				
About 3,000 feet upstream of Cadillac Drive.....	*189				
<i>Swift Creek Tributary No. 1:</i>					
About 2,650 feet downstream of North Loop Road.....	*191				
Just downstream of dam.....	*216				
Just upstream of dam.....	*225				

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Menard County (unincorporated areas) (FEMA Docket No. 6920)		Maps available for inspection at the Woodland Post Office, Woodland, Illinois.		Collyell Bay:	
Grova Creek:		KENTUCKY		At confluence with Amite River	
Just upstream of State Route 29	*527			At confluence of Middle Collyell Creek	
Just downstream of Farm Access Road	*533	Augusta (city), Bracken County (FEMA Docket No. 6923)		Collyell Creek:	
Sangamon River:		Ohio River:		At confluence of Middle Collyell Creek	
About 1.5 miles downstream of State Route 123	*502	About 1.0 mile downstream of confluence of Bracken Creek	*509	At South Satsuma Road	
About 1.2 miles upstream of County Route 2	*508	About 1.3 miles upstream of confluence of Bracken Creek	*511	At approximately 530 feet upstream of Illinois Central Gulf Railroad	
Maps available for inspection at the County Zoning Office, County Courthouse, Petersburg, Illinois.		Maps available for inspection at the City Hall, 219 Main Street, Augusta, Kentucky.		Dumplin Creek:	
Minooka (village), Grundy and Will Counties (FEMA Docket No. 6920)		Berea (city), Madison County (FEMA Docket No. 6923)		At confluence of Middle Collyell Creek	
Du Page River:		Walnut Meadow Branch:		Approximately 0.34 mile upstream of Gaylord Road South	
About 4,200 feet downstream of Channahon Road	*525	About 1,200 feet downstream of Interstate 75	*898	Felders Bayou:	
Just downstream of Channahon Road	*527	Just downstream of Interstate 75	*901	At confluence with West Collyell Creek	
Maps available for inspection at the Village Hall, 123 Mondamin Street, Minooka, Illinois.		Just upstream of Interstate 75	*907	At State Highway 447	
Morrison (city), Whiteside County (FEMA Docket No. 6923)		About 1.1 miles upstream of Interstate 75	*919	At Joe May Road culvert	
French Creek:		Silver Creek:		Approximately 0.38 mile upstream of Garney Hood Road	
At mouth	*623	About 1.1 miles downstream of Glade Road	*906	Grays Creek:	
About 1,400 feet upstream of Chicago and North Western railroad	*649	Just downstream of State Route 21	*941	At confluence of Amite River	
Rock Creek:		Brushy Fork:		Approximately 350 feet downstream of Schique Road	
About 2,500 feet downstream of Prairie Center Road	*622	At mouth	*918	Approximately 1.48 miles upstream of Interstate Highway 12	
About 0.57 miles upstream of West Lincolnway Street	*632	Just downstream of U.S. Route 25	*976	Hornsby Creek:	
Maps available for inspection at the City Clerk's Office, Municipal Building, 200 West Main Street, Morrison, Illinois.		Maps available for inspection at the City Hall, Berea, Kentucky.		At confluence with Collyell Creek	
Morton (village), Tazewell County (FEMA Docket No. 6920)		Mercer County, (unincorporated areas) (FEMA Docket No. 6923)		At Illinois Central Gulf Railroad	
Prairie Creek:		Chaplin River:		Little Natalbany River:	
About 0.72 mile downstream of Broadway Road	*648	Just upstream of Private Road	*721	At Illinois Central Gulf Railroad	
Just downstream of Atchison Topeka & Santa Fe Railway	*707	About 1.5 miles downstream of Cornishville Road	*741	At State Highway 1064	
Bull Run Creek:		Kentucky River:		Allen Bayou:	
Just upstream of Idlewood Street	*679	About 6.0 miles downstream of confluence of Landing Run	*527	At confluence with Amite River	
About 1,550 feet upstream of East Polk Street	*707	Just upstream of Norfolk Southern Railway	*549	At King Drive	
Maps available for inspection at the Public Works Department, Village Hall, 120 North Main Street, Morton, Illinois.		Maps available for inspection at the County Courthouse Annex, Harrodsburg, Kentucky		Amite River:	
River Forest (village), Cook County (FEMA Docket No. 6923)		Smithland (city), Livingston County (FEMA Docket No. 6923)		Approximately 1.2 miles down river of first confluence with Old River	
Dos Plaines River:		Ohio River:		Approximately 0.2 mile downstream of Pipeline Canal	
Just upstream of Madison Street	*619	About 2,800 feet downstream of confluence of Cumberland River	*343	At confluence with Allen Bayou	
Just downstream of North Avenue	*622	About 1,050 feet upstream of confluence of Cumberland River	*344	At approximately 0.76 mile downstream of Hancock Road	
Maps available for inspection at the Public Works Department, Village Hall, 400 Park Avenue, River Forest, Illinois.		Maps available for inspection at the City Hall, Smithland, Kentucky.		Beaver Branch:	
Watseka (city), Iroquois County (FEMA Docket No. 6923)		LOUISIANA		At confluence with West Collyell Creek	
Sugar Creek:		Livingston Parish (unincorporated areas) (FEMA Docket No. 6923)		At Milton Road	
At confluence with Iroquois River	*630	Middle Collyell Creek:		At State Highway 1025	
About 2,900 feet upstream of Union Pacific railroad	*635	At confluence with Collyell Creek	*15	Approximately 18 miles upstream of State Highway 1024 (Market Road)	
Iroquois River:		Approximately 400 feet north of Drakeford McMorris Road	*26	Beaver Creek:	
At confluence of Sugar Creek	*630	Approximately 500 feet north of Black Mud Road	*36	At confluence with Amite River	
About 1.6 miles upstream of Union Pacific railroad	*631	Approximately 1.5 miles upstream of Salt Dome Road	*50	At approximately 800 feet downstream of Hunstock Avenue	
Maps available for inspection at the Collector's Office, City Hall, 228 East Walnut Street, Watseka, Illinois.		Approximately 800 feet downstream of State Highway 1025	*55	At State Highway 1024	
Woodland (village), Iroquois County (FEMA Docket No. 6923)		At State Highway 1025	*57	At State Highway 1019	
Sugar Creek:		Millers Canal:		At approximately 200 feet upstream of State Highway 1022	
About 1,300 feet upstream of North Avenue	*638	At confluence with Grays Creek	*32	Blood River (Lower Branch):	
About 4200 feet upstream of Main Street	*642	At Interstate Highway 12	*40	At confluence with Ticklaw River	
		Millers Canal Tributary:		At confluence with Lizard Creek	
		At confluence with Millers Canal	*38	Blood River (Upper Reach):	
		Approximately 0.4 mile above Interstate Highway 12	*40	At U.S. Highway 190	
		Moler Bayou:		Approximately 0.34 mile downstream of Mary Kinchen Road	
		At confluence with West Collyell Creek	*60	Ticklaw River:	
		At State Highway 1019	*72	At confluence of Blood River	
		Taylor Bayou:		Approximately 3.08 miles upstream of confluence with Blood River	
		At confluence with Middle Collyell Creek	*25	West Collyell Creek:	
		Approximately 1.05 miles upstream of State Highway 447	*34	At confluence with Middle Collyell Creek	
				At State Highway 447	
				At upstream side of State Highway 1019	
				Maps available for inspection at the Courthouse Building, Permit Department, 20180 Iowa Street, Livingston, Louisiana	
				MAINE	
				Damariscotta (town), Lincoln County (FEMA Docket No. 6923)	
				Damariscotta River: Entire shoreline within community	
				Biscay Pond: Entire shoreline within community	
				Pemaquid Pond: Entire shoreline within community	
				Maps available for inspection at the Town Office Planning Board, Church Street, Damariscotta, Maine	

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	MISSISSIPPI		MISSISSIPPI		NEW YORK		NEW YORK
	Jefferson (town), Lincoln County (FEMA Docket No. 6923)		Enterprise (town), Clarke County (FEMA Docket No. 6923)		Salt Draw:		Ashland (town), Greene County (FEMA Docket No. 6923)
	Dameriscotta Lacke: Entire shoreline within corporate limits.....	*58	Chickasawhay River:		At approximately 1,300 feet downstream of Interstate Route 40.....	*6,196	Balavia Kill:
	Dyer Long Pond: Entire shoreline.....	*135	About 0.66 mile downstream of Bridge Street.....	*249	At approximately 275 feet upstream of Interstate Route 40.....	*6,203	At downstream corporate limits.....
	Clary Lake: Entire shoreline within corporate limits.....	*154	About 1,900 feet upstream of Bridge Street.....	*255	At State Route 41.....	*6,214	At confluence of Lewis Creek.....
	Maps available for inspection at the Planning Board, Jefferson, Maine.		Maps available for inspection at the Town Hall, Enterprise, Mississippi.		At approximately 1,600 feet upstream of State Route 41.....	*6,214	At confluence of West Hollow Brook.....
	MARYLAND		Leakesville (town), Greene County (FEMA Docket No. 6923)		Approximately 750 feet downstream of Jewett Road.....	*1,440	At upstream corporate limits.....
	Church Creek (town), Dorchester County (FEMA Docket No. 6923)		Chickasawhay River:		At upstream corporate limits.....	*1,462	Maps available for inspection at the Town Hall, Route, 23, Ashland, New York.
	Church Creek: Entire shoreline.....	*6	At confluence of Martin Creek.....	*85	Chestnut Ridge (village), Rockland County (FEMA Docket No. 6920)		Pascack Brook:
	Maps available for inspection at the Church Creek Post Office, c/o Francis Fitzhugh, P.O. Box 52, Church Creek, Maryland.		About 2,000 feet upstream of confluence of Blakely Creek.....	*88	At downstream corporate limits.....	*243	At downstream corporate limits.....
	MICHIGAN		Blakely Creek:		Downstream side of dam.....	*267	Downstream side of dam.....
	Colon (township), St. Joseph County (FEMA Docket No. 6923)		At mouth.....	*87	Upstream side of dam.....	*278	Upstream side of dam.....
	St. Joseph River:		About 0.78 mile upstream of Oak Street.....	*109	Approximately 60 feet upstream of Lillian Drive.....	*318	Approximately 60 feet upstream of Lillian Drive.....
	About 2,800 feet downstream of Farrand Road.....	*843	Martin Creek:		At upstream corporate limits.....	*329	At upstream corporate limits.....
	About 1.1 miles upstream of Stowell Road.....	*846	At mouth.....	*85	Pine Brook:		At downstream corporate limits.....
	Swan Creek:		About 0.46 mile upstream of mouth.....	*106	Upstream side of Pine Brook Road.....	*305	Upstream side of Pine Brook Road.....
	About 1.7 miles downstream of Decker Road.....	*852	Martin Creek Tributary:		Upstream side of Lakeside School Entrance Drive & Dam.....	*428	Upstream side of Lakeside School Entrance Drive & Dam.....
	About 1.8 miles upstream of Decker Road.....	*853	At mouth.....	*95	Approximately 740 feet upstream of Interstate Route 87.....	*468	Approximately 740 feet upstream of Interstate Route 87.....
	Sturgeon Lake: Along shoreline.....	*844	About 2,400 feet upstream of mouth.....	*108	Hungry Hollow Brook:		At confluence with Pine Brook.....
	Palmer Lake: Along shoreline.....	*852	Maps available for inspection at the Town Hall, Leakesville, Mississippi.		Upstream side of 1st Hungry Hollow Road crossing.....	*407	Upstream side of 1st Hungry Hollow Road crossing.....
	Maps available for inspection at the Township Hall, 132 North Blackstone Avenue, Colon, Michigan.		MISSOURI		Upstream side of 2nd Hungry Hollow Road crossing.....	*461	Upstream side of 2nd Hungry Hollow Road crossing.....
	Colon (village), St. Joseph County (FEMA Docket No. 6923)		Maryland Heights (city), St. Louis County (FEMA Docket No. 6917)		At upstream corporate limits.....	*477	At upstream corporate limits.....
	St. Joseph River: Within community.....	*844	Missouri River:		Maps available for inspection at the Village Clerk's Office, Chestnut Ridge, New York.		Seneca Nation of Indians, Allegany, Cattaraugus, Chautauque, and Erie Counties (FEMA Docket No. 6923)
	Swan Creek:		Just upstream of Interstate 70.....	*456	Cattaraugus Creek:		Approximately .44 mile downstream of U.S. Route 20.....
	At mouth.....	*844	About 7.2 miles upstream of Interstate 70.....	*463	Approximately 3.06 miles upstream of Interstate Route 90.....	*605	Approximately 3.06 miles upstream of Interstate Route 90.....
	Just downstream of Swan Creek Dam.....	*846	Creve Coeur Creek:		At upstream corporate limits.....	*664	At upstream corporate limits.....
	Just upstream of Swan Creek Dam.....	*852	About 3.5 feet upstream of mouth.....	*459	Maps available for inspection at the William Seneca Tribal Office Building, 1490 Route 438, Irving, New York.		Union Vale (town), Dutchess County (FEMA Docket No. 6920)
	About 1.1 miles upstream of State Street.....	*852	Just upstream of Creve Coeur Mill Road.....	*462	Clove Brook:		Confluence with Pray Pond.....
	Palmer Lake: Along shoreline.....	*852	Dorsett Tributary:		Confluence of Sealey Creek.....	*545	Confluence of Sealey Creek.....
	Sturgeon Lake: Along shoreline.....	*844	At mouth.....	*468	Confluence with Jackson Creek.....	*500	Confluence with Jackson Creek.....
	Maps available for inspection at the Village Hall, 110 North Blackstone Avenue, Colon, Michigan.		About 700 feet upstream of Rush Creek Way.....	*486	Approximately 80 feet upstream of the downstream crossing of West Clove Mountain Road.....	*541	Approximately 80 feet upstream of the downstream crossing of West Clove Mountain Road.....
	MINNESOTA		Fee Fee Creek:		Approximately 1,660 feet upstream of the downstream crossing of West Clove Mountain Road.....	*610	Approximately 1,660 feet upstream of the downstream crossing of West Clove Mountain Road.....
	Mahnomen (city), Mahnomen County (FEMA Docket No. 6920)		About 2,300 feet downstream of Creve Coeur Mill Road.....	*457	Upstream side of the upstream crossing of Clove Mountain Road.....	*670	Upstream side of the upstream crossing of Clove Mountain Road.....
	Wild Rice River:		Just downstream of Lackland Avenue.....	*508	Approximately 3,060 feet upstream of the upstream crossing of West Clove Mountain Road.....	*712	Approximately 3,060 feet upstream of the upstream crossing of West Clove Mountain Road.....
	About 1.2 miles downstream of the Soo Line Railway.....	*1,185	East Tributary Fee Fee Creek:		Fishkill Creek:		Approximately 3,020 feet downstream of Lima Mill Road.....
	About 0.9 mile downstream of the Soo Line Railway.....	*1,187	At confluence with Fee Fee Creek.....	*498			
	Maps available for inspection at the City Hall, Mahnomen, Minnesota.		Just downstream of Lackland Avenue.....	*514			
	Stearns County (unincorporated areas) (FEMA Docket No. 6920)		Midland Creek:				
	Sauk River:		At confluence with Fee Fee Creek.....	*475			
	At City of Cold Spring upstream corporate limits.....	*1,092	Just downstream of Adie Road.....	*529			
	Approximately 2 miles upstream of State Route 22.....	*1,096	North Tributary Midland Creek:				
	Clearwater River:		At confluence with Midland Creek.....	*493			
	At confluence with Mississippi River.....	*948	Just downstream of Fee Fee Road.....	*497			
	Upstream side of County Route 144.....	*996	Maps available for inspection at the Building Commissioner's Office, City Hall, 212 Millwell, Maryland Heights, Missouri.				
	At State Route 55.....	*1,009	NEW MEXICO				
	North Fork Crow River (Mud Lake):		Moriarty (city), Torrance County (FEMA Docket No. 6923)				
	Upstream side of State Route 55.....	*1,128	City Drawn:				
	Downstream side of Soo Line Railroad.....	*1,128	At Columbia Street approximately 920 feet south of Interstate Route 40.....	#1			
	North Fork Crow River:		At Columbia Street approximately 1,400 feet south of Interstate Route 40.....	#2			
	At State Route 23.....	*1,143	At Broadway approximately 720 feet south of Interstate Route 40.....	#1			
	At upstream County boundary.....	*1,183	At Broadway approximately 880 feet south of Interstate Route 40.....	#2			
	Maps available for inspection at the County Courthouse, St. Cloud, Minnesota.		At Broadway approximately 1,300 feet south of Interstate Route 40.....	#3			
			Duke Country Draw:				
			At Linden Avenue approximately 100 feet west of State Route 41.....	#2			
			At Girard Avenue approximately 100 feet west of State Route 41.....	#1			
			Crossley Draw:				
			At Eastern Avenue approximately 600 feet north of Martinez Road.....	#1			
			At approximately 100 feet west of Eastern Avenue and approximately 600 feet north of Martinez Road.....	#2			

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Upstream side of McKinney Pond Dam.....	*466
Upstream side of Pray Pond Dam.....	*497
Jackson Creek:	
Approximately 3,280 feet downstream of State Route 55.....	*421
Upstream side of Wiseman Road.....	*467
Upstream side of North Partman Road.....	*514
Approximately 1,800 feet downstream of downstream crossing of Waterbury Hill Road.....	*580
Approximately 20 feet upstream of upstream crossing of Waterbury Hill Road.....	*640
Seeley Creek:	
Confluence with Clove Brook.....	*545
Approximately 440 feet upstream of County Route 9.....	*610
Sprout Creek:	
Approximately 1,820 feet downstream of Verbank Village Road.....	*433
Approximately 40 feet upstream of Verbank Village Road.....	*508
At County Route 90.....	*567
Swoozy Creek:	
Confluence with Clove Brook.....	*500
Approximately 35 feet upstream of County Route 9.....	*565
Approximately 580 feet upstream of County Route 9.....	*589
Walsh Creek:	
Confluence with Clove Mountain Creek.....	*520
Approximately 2,800 feet upstream of confluence with Clove Mountain Creek.....	*580
Approximately 1,300 feet downstream of Bloomer Road.....	*641
Approximately 380 feet upstream of Bloomer Road.....	*697
Willow Brook:	
Confluence with Sprout Creek.....	*542
Approximately 1,600 feet upstream of Tompkins Road.....	*590
Upstream side of Waterbury Hill Road crossing.....	*640
Approximately 450 feet upstream of third upstream crossing of County Route 9.....	*704
Maps available for inspection at the Town Hall, R.R. 2, Lagrangeville, New York.	
Walton (town) Delaware County (FEMA Docket No. 6923)	
West Branch Delaware River (Lower Reach):	
300 feet downstream of State Route 10.....	*1,169
At confluence of Bobs Brook.....	*1,188
At upstream corporate limits.....	*1,201
West Branch Delaware River:	
At downstream corporate limits.....	*1,216
Approximately 1 mile upstream of confluence of Marvin Hollow.....	*1,222
East Brook:	
At corporate limits.....	*1,236
Downstream side of East Brook Hollow Road.....	*1,263
Approximately 0.9 mile upstream of East Brook Hollow Road.....	*1,288
Third Brook:	
At downstream corporate limits.....	*1,273
Approximately 1,800 feet upstream of corporate limits.....	*1,320
Approximately .8 mile upstream of Village of Walton corporate limits.....	*1,391
Maps available for inspection at the Town Office Building, 109 Delaware Street, Walton, New York.	
Wesley Hills (village), Rockland County (FEMA Docket No. 6923)	
Willow Tree Brook:	
At downstream corporate limits.....	*365
Approximately 40 feet upstream of Forshay Road.....	*477
Approximately 20 feet upstream of Wind Mill Drive.....	*544
At upstream corporate limits.....	*566
Spook Rock Brook:	
At confluence with Willow Tree Brook.....	*383
At upstream corporate limits.....	*396
Maps available for inspection at the Office of the Building Inspector, Village Hall, Wesley Hills, New York.	

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
NORTH CAROLINA	
Greensboro (city), Guilford County (FEMA Docket No. 6923)	
South Buffalo Creek:	
About 0.7 mile downstream of Interstate 85.....	*717
Just downstream of Wendover Avenue.....	*828
Just upstream of Wendover Avenue.....	*842
About 4500 feet upstream of Big Tree Way.....	*869
North Buffalo Creek:	
About 2.6 miles downstream of confluence of Muddy Creek.....	*700
Just downstream of Walker Avenue.....	*793
Just upstream of Walker Avenue.....	*798
Muddy Creek:	
At mouth.....	*712
Just downstream of East Bessemer Avenue.....	*749
Mill Run Creek:	
At mouth.....	*729
Just upstream of Ashe Street.....	*763
Ryan Creek:	
At mouth.....	*734
Just downstream of Glendale Drive.....	*778
Twin Lakes Tributary:	
At mouth.....	*751
About 300 feet upstream of Yow Road (just downstream of dam).....	*774
About 450 feet upstream of Yow Road (just upstream of dam).....	*785
South Buffalo Creek Tributary A:	
At mouth.....	*805
Just downstream of Wendover Avenue.....	*816
Just upstream of Wendover Avenue.....	*824
Just downstream of Tower Road.....	*853
Just upstream of Tower Road.....	*865
About 3,000 feet upstream of Tower Road.....	*889
South Buffalo Creek Tributary B:	
At mouth.....	*811
Just downstream of Edwardia Drive.....	*818
Just upstream of Edwardia Drive.....	*825
Just downstream of Wendover Avenue.....	*826
Just upstream of Wendover Avenue.....	*831
About 1.33 miles upstream of Carnegie Place.....	*885
North Buffalo Creek Tributary A:	
At mouth.....	*758
Just downstream of Wendover Avenue.....	*763
Just upstream of Wendover Avenue.....	*769
About 2,400 feet upstream of Bryan Boulevard.....	*809
Horsepen Creek:	
About 750 feet downstream of U.S. Route 220.....	*753
About 2,500 feet upstream of Stage Coach Trail.....	*822
East Fork Deep River:	
About 2,500 feet downstream of South Regional Road.....	*815
About 2,700 feet upstream of South Regional Road.....	*834
Richland Creek:	
About 5,450 feet downstream of Lawndale Drive.....	*752
Just upstream of Lawndale Drive.....	*773
Bull Run Creek:	
About 0.74 mile downstream of confluence of Bull Run Tributary.....	*769
Just downstream of Concrete Dam.....	*783
Just upstream of Concrete Dam.....	*796
About 3,250 feet upstream of Concrete Dam.....	*801
Bull Run Tributary:	
At mouth.....	*778
About 750 feet upstream of Horse Path.....	*782
Maps available for inspection at the City Hall, Greensboro, North Carolina.	
Mitchell County (unincorporated areas) (FEMA Docket No. 6920)	
North Toe River:	
About 2.2 miles downstream of U.S. Route 19E.....	*2,485
Just downstream of Altapass Highway.....	*2,562
Beaver Creek:	
About 1,200 feet upstream of Beaver Creek Road (upstream bridge).....	*2,663
About 1,340 feet upstream of Beaver Creek Road (upstream bridge).....	*2,667
Grassy Creek:	
Just downstream of Swiss Pine Lake Dam.....	*2,532
At confluence of East Fork Grassy Creek.....	*2,617
East Fork Grassy Creek:	
At confluence with Grassy Creek.....	*2,617

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
About 1,690 feet upstream of confluence with Grassy Creek.....	*2,627
Maps available for inspection at the Mitchell County Emergency Management Office, County Administrative Building, Bakersville, North Carolina.	
Spruce Pine (town), Mitchell County (FEMA Docket No. 6920)	
North Toe River:	
About 1.7 miles downstream of U.S. Route 19E.....	*2,480
About 350 feet upstream of dam.....	*2,553
Beaver Creek:	
At mouth.....	*2,521
About 1,290 feet upstream of Beaver Creek Road (upstream bridge).....	*2,568
Grassy Creek:	
At mouth.....	*2,528
About 1,275 feet upstream of confluence with North Toe River.....	*2,537
Maps available for inspection at the Town Hall, Spruce Pine, North Carolina.	
Stokes County (unincorporated areas) (FEMA Docket No. 6923)	
Dan River:	
About 2.1 miles upstream of State Road 89.....	*745
About 2.9 miles upstream of State Road 89.....	*750
Crooked Run Creek:	
At county boundary.....	*888
Just downstream of SR 1105.....	*904
Maps available for inspection at the Planning Department, County Courthouse, Danbury, North Carolina.	
NORTH DAKOTA	
Valley City (city), Barnes County (FEMA Docket No. 6923)	
Shoeyenne River:	
At Sunrise Drive.....	*1,215
Approximately 350 feet downstream of Interstate 94.....	*1,218
Approximately 1,150 feet downstream of 3rd Avenue Southeast.....	*1,222
Approximately 600 feet upstream of 8th Street Northeast.....	*1,224
Approximately 6,500 feet upstream of 5th Avenue Northeast.....	*1,228
Maps are available for review at City Hall, 220 Third Street, NE., Valley City, North Dakota.	
OHIO	
Middlefield (village), Geauga County (FEMA Docket No. 6923)	
Tributary A:	
Just upstream of corporate limits.....	*1,106
Just downstream of Lake Dam.....	*1,133
Just upstream of Lake Dam.....	*1,144
About 2,800 feet upstream of Grove Street.....	*1,159
Tributary B:	
At mouth.....	*1,116
Just downstream of North State Street.....	*1,123
Maps available for inspection at the Village Municipal Center, Middlefield, Ohio.	
Paulding (village), Paulding County (FEMA Docket No. 6923)	
Flat Rock Creek:	
About 2,300 feet downstream of Jackson Street.....	*718
About 1,600 feet upstream of abandoned railroad.....	*722
Maps available for inspection at the Village Hall, 208 North Williams Street, Paulding, Ohio.	
Port Jefferson (village), Shelby County (FEMA Docket No. 6920)	
Great Miami River:	
About 750 feet downstream of Pasco Montra Road.....	*958

# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location
*2,627	About 400 feet upstream of Johnston-Slagle Road.	*959	Mill Creek: Approximately 550 feet downstream of T-571..... Upstream side of State Route 390..... At Pleasant Ridge Road..... Downstream side of dam..... At T-577.....	*1,094 *1,164 *1,227 *1,276 *1,340	South Branch Calkins Creek: At confluence with Calkins Creek..... Approximately 1,270 feet upstream of confluence with Calkins Creek.....	*748 *769	Maps available for inspection at the Mayor's Office, Municipal Building, Port Jefferson, Ohio.
	Zanesville (city), Muskingum County (FEMA Docket No. 6920)		Rattlesnake Creek: At confluence with Mill Creek..... Approximately 630 feet downstream of first downstream crossing of Pleasant Ridge Road..... At second downstream crossing of Pleasant Ridge Road..... Approximately .3 mile upstream of second downstream crossing of Pleasant Ridge Road.....	*1,179 *1,250 *1,289 *1,333	Maps available for inspection at the Township Municipal Building, Damascus, Pennsylvania.		
*2,492	Muskingum River: At downstream corporate limits..... At upstream corporate limits.....	*691 *700	Maps available for inspection at the Barrett Township Municipal Building, Route 390, Mountaintown, Pennsylvania.		Greene (township), Pike County (FEMA Docket No. 6923)		
*2,553	Licking River: At confluence with Muskingum River..... At upstream corporate limits.....	*694 *694			East Branch Wallenpaupack Creek: Approximately 1,150 feet downstream of State Route 507..... Approximately 65 feet upstream of Creek Road.....	*1,301 *1,380	
*2,521	Maps available for inspection at the Municipal Building, 401 Market Street, Zanesville, Ohio.				Wallenpaupack Creek: Approximately 1.9 miles downstream of State Route 507..... Approximately 5.8 miles upstream of State Route 507.....	*1,278 *1,596	
*2,666	OKLAHOMA				Maps available for inspection at the Greene Township Municipal Building, Greentown, Pennsylvania.		
*2,528	Miami (city), Ottawa County (FEMA Docket No. 6923)		Bedford (borough), Bedford County (FEMA Docket No. 6920)		Liberty (township), Bedford County (FEMA Docket No. 6923)		
*2,537	Tar Creek: At confluence with Neosho River..... At confluence of Quail Creek..... Approximately 500 feet downstream of 22nd Avenue..... At D Street.....	*774 *774 *778 *789	Raystown Branch Juniata River: At downstream corporate limits..... Approximately 340 feet upstream of upstream corporate limits.....	*1,059 *1,064	Raystown Branch Juniata River: Approximately 1.1 miles downstream of confluence of Ravers Run..... Approximately 0.7 mile upstream of confluence of Ravers Run.....	*836 *844	
*745	Quail Creek: At confluence with Tar Creek..... At Washington Street..... At corporate limits.....	*774 *774 *779	Texas Run: Approximately 740 feet downstream of West Pitt Street..... At upstream corporate limits.....	*1,063 *1,071	Ravers Run: At confluence with Raystown Branch of the Juniata River..... Approximately 30 feet upstream of Township Route 568.....	*841 *897	
*862	Maps available for inspection at the Civic Center, 129 5th Street NW., Miami, Oklahoma.		Blooming Grove (township), Pike County (FEMA Docket No. 6923)		Maps available for inspection at the residence of Dennis Gresko, Township Secretary, 604 16th Street, Saxton, Pennsylvania.		
*904	OREGON		Billings Creek: At confluence of Shohola Creek..... Approximately .5 mile upstream of LR 51019.....	*1,286 *1,291	Lincoln (township), Bedford County (FEMA Docket No. 6923)		
	Troutdale (city), Multnomah County (FEMA Docket No. 6923)		Blooming Grove Creek: At State Route 402..... Downstream side of LR 51019..... Approximately .6 mile upstream of confluence of Fairview Outlet.....	*1,386 *1,439 *1,456	Bobs Creek: Approximately 2 mile downstream of downstream corporate limits..... Approximately 6 mile upstream of downstream corporate limits.....	*1,233 *1,270	
*1,215	Sandy River: Approximately 1.5 miles downstream of Interstate 84 westbound..... Approximately at Interstate 84 eastbound..... Approximately at Crown Point Road..... Approximately 5,500 feet upstream from Crown Point Road.....	*32 *32 *37 *43	Shohola Creek: At confluence of McConnell Creek..... At T-410 (Spring Road).....	*1,258 *1,298	Georges Creek: Approximately 350 feet downstream of downstream corporate limits..... Approximately .5 mile upstream of LR 5078..... Downstream side of T-633..... Approximately .4 mile upstream of T-633.....	*1,279 *1,350 *1,413 *1,469	
*1,218	Beaver Creek: Approximately at confluence with Sandy River..... Approximately 200 feet upstream of Crown Point Road.....	*33 *39	Maps available for inspection at the Township Municipal Building, Route 739, Lords Valley, Pennsylvania.		Maps available for inspection at the residence of Ms. Mary Helsel, Township Secretary, Box 158, Alum Bank, Pennsylvania.		
*1,222	Stark Street: Approximately 100 feet upstream of Stark Street..... Approximately 650 feet upstream of Stark Street..... Approximately 120 feet downstream of Sweetbriar Road.....	*211 *212 *242	Carroll Valley (borough), Adams County (FEMA Docket No. 6920)		Manchester (township), Wayne County (FEMA Docket No. 6923)		
*1,224	Maps are available for review at City Hall, 104 S.E. Kilting Street, Troutdale, Oregon.		Toms Creek: At downstream corporate limits..... Approximately 350 feet downstream of Lion Trail..... At the downstream side of Jacks Mountain Road..... At most upstream corporate limits.....	*444 *515 *587 *636	Delaware River: At downstream corporate limits..... At confluence with Cooley Creek..... At T-651 extended..... Approximately 1.8 miles upstream of T-651 extended.....	*773 *809 *827 *841	
*1,106	PENNSYLVANIA		Friends Creek: At the confluence with Toms Creek..... 50 feet upstream of the upstream corporate limits.....	*452 *496	Little Equinunk Creek: At confluence with the Delaware River..... Approximately .4 mile upstream of Stalker Road..... Approximately .9 mile upstream of Stalker Road.....	*817 *863 *920	
*1,133	Albany (township), Berks County (FEMA Docket No. 6923)		Damascus (township), Wayne County (FEMA Docket No. 6923)		South Branch Equinunk Creek: Approximately 150 feet above confluence with Delaware River..... At downstream side of Equinunk Road..... At upstream side of Whitelys Road..... At downstream side of S.R. 1016.....	*911 *986 *1,030 *1,129	
*1,144	Maiden Creek—Ontelaunee Creek: At downstream corporate limits..... Approximately 140 feet upstream of upstream corporate limits.....	*379 *425	Delaware River: At downstream corporate limits..... At T-678 extended..... At confluence with Calkins Creek..... Downstream side of State Route 371..... Upstream side of State Route 1020..... At upstream corporate limits.....	*697 *711 *725 *734 *757 *772	Maps available for inspection at the Manchester Municipal Building, R.R. 1, Box 84 AA, Equinunk, Pennsylvania.		
*1,159	Maps available for inspection at the residence of Karen FitzGerald, Township Secretary, R.D. #2, Box 262 H, Kempton, Pennsylvania.		Calkins Creek: At confluence with Delaware River..... Just downstream of confluence with North Branch Calkins Creek and South Branch Calkins Creek.....	*725 *748	Midland (borough), Beaver County (FEMA Docket No. 6923)		
*1,116	Barrett (township), Monroe County (FEMA Docket No. 6920)		North Branch Calkins Creek: At confluence with Calkins Creek..... Approximately 990 feet upstream of confluence with Calkins Creek.....	*748 *764	Ohio River: At downstream corporate limits..... At upstream corporate limits.....	*693 *693	
*1,123	Broadhead Creek: At downstream corporate limits..... At confluence of Spruce Cabin Run..... At confluence of Goose Pond Run..... Approximately .3 mile upstream of State Route 390.....	*843 *907 *907 *1,018					
*716	Goose Pond Run: At confluence with Broadhead Creek..... Approximately 450 feet upstream of Willard Road.....	*973 *1,001					
*722	Middle Branch Tributary: At confluence with Broadhead Creek..... At T-612.....	*1,018 *1,031					
*956							

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the Midland Borough Building, Midland, Pennsylvania.		Little Sacony Creek:		Run of Plum Branch:	
Neville (township), Allegheny County (FEMA Docket No. 6923)		At confluence with Sacony Creek.....	*552	At mouth.....	*13
Ohio River:		Approximately 60 feet upstream of Smoketown Road.....	*583	About 3,300 feet upstream of mouth.....	*24
Downstream corporate limits.....	*717	Bieber Creek:		Waccamaw River:	
Upstream corporate limits.....	*724	Approximately 120 feet downstream of downstream corporate limits.....	*406	About 0.9 mile downstream of U.S. Route 501.....	*10
Ohio River Back Channel:		Approximately .62 mile upstream of downstream corporate limits.....	*482	About 600 feet upstream of Main Street.....	*11
Downstream corporate limits.....	*717	Approximately 30 feet downstream of Pricetown Road.....	*653	Maps available for inspection at the City Hall, Conway, South Carolina.	
Upstream corporate limits.....	*724	At Stimel Road.....	*691	Eastover (town), Richland County (FEMA Docket No. 6923)	
Maps available for inspection at the Neville Municipal Building, 3rd and Grand Streets, Pittsburgh, Pennsylvania.		Approximately 330 feet upstream of Lyons Road.....	*781	Griffes Creek:	
Paradise (township), Monroe County (FEMA Docket No. 6920)		Maps available for inspection at the Rockland Township Building, Dysher Road, Rockland, Pennsylvania.		About 3,150 feet downstream of CSX railroad.....	*166
Devils Hole Creek:		Versailles (borough), Allegheny County (FEMA Docket No. 6923)		About 2,800 feet upstream of Main Street.....	*179
At confluence with Paradise Creek.....	*1,094	Youghiogheny River:		Maps available for inspection at the Town Hall, Eastover, South Carolina.	
At T-559.....	*1,167	At downstream corporate limits.....	*747	Horry County (unincorporated areas) (FEMA Docket No. 6923)	
Approximately .4 mile upstream of T-559.....	*1,233	At upstream corporate limits.....	*750	Altman Branch:	
Forest Hills Run:		Long Run:		At mouth.....	*16
At confluence with Paradise Creek.....	*795	At downstream corporate limits.....	*752	Just downstream of Dirt Road.....	*31
Downstream side of T-567.....	*886	At upstream corporate limits.....	*774	Bear Swamp:	
Approximately .6 mile upstream of T-567.....	*940	Maps available for inspection at the Versailles Borough Building, McKeesport, Pennsylvania.		About 1,730 feet downstream of U.S. Route 701.....	*9
Upstream side of LR 45075.....	*1,003	Washington (township), Northampton County (FEMA Docket No. 6923)		About 2,900 feet upstream of State Route 110.....	*21
Approximately .6 mile upstream of LR 45075.....	*1,075	Martins Creek:		Bear Swamp Tributary:	
Downstream side of Golf Cart Road.....	*1,141	Approximately 100 feet downstream of State Route 165.....	*384	At mouth.....	*11
Approximately 400 feet upstream of LR 45100.....	*1,214	Approximately 375 feet upstream of CONRAIL.....	*466	About 1,460 feet upstream of mouth.....	*17
Paradise Creek:		Approximately 825 feet downstream of L.R. 48075.....	*563	Bailer Swamp:	
Approximately 415 feet downstream of T-572.....	*636	At upstream corporate limits.....	*611	At mouth.....	*18
At State Route 191 (most upstream crossing).....	*710	Waltz Creek:		About 4,400 feet upstream of confluence with Bear Swamp.....	*21
Approximately 0.9 mile upstream of most upstream crossing of State Route 191.....	*780	Approximately 1,350 feet downstream of State Route 191.....	*475	Collins Creek:	
Approximately .4 mile upstream of LR 45027.....	*850	Approximately 560 feet upstream of State Route 191.....	*501	About 2.4 miles downstream of State Route 707.....	*7
Downstream side of LR 45075.....	*925	Unnamed Tributary to Waltz Creek:		Just downstream of Unnamed Road.....	*22
Upstream side of T-603 (most downstream crossing).....	*962	At confluence with Waltz Creek.....	*475	Collins Creek Tributary:	
At T-603 (most upstream crossing).....	*1,008	Approximately 165 feet upstream of Gravel Dam.....	*479	At mouth.....	*10
At T-559.....	*1,151	Unnamed Tributary to Martins Creek:		About 2,000 feet upstream of mouth.....	*17
Swiftwater Creek:		At confluence with Martins Creek.....	*574	Crab Tree Swamp:	
At downstream corporate limits.....	*969	At upstream corporate limits.....	*611	At mouth.....	*12
At upstream corporate limits.....	*1,044	Maps available for inspection at the Washington Township Building, Ackermanville, Pennsylvania.		Just upstream of State Route 165.....	*19
Maps available for inspection at the Paradise Township Building, Cresco, Pennsylvania.		SOUTH CAROLINA		Crab Tree Swamp Tributary 1:	
Pleasantville (borough), Bedford County (FEMA Docket No. 6923)		Atlantic Beach (town), Horry County (FEMA Docket No. 6923)		At mouth.....	*16
Barefoot Run:		Atlantic Ocean:		Just upstream of U.S. Route 501.....	*30
Approximately 150 feet downstream of State Route 96.....	*1,212	At intersection of Atlantic Street and 1st Avenue.....	*15	Crab Tree Swamp Tributary 2:	
Approximately 20 feet upstream of Hench Street.....	*1,222	Along shoreline.....	*22	At mouth.....	*17
Approximately 50 feet downstream of Main Street.....	*1,230	Maps available for inspection at the Town Hall, Atlantic Beach, South Carolina.		Just upstream of U.S. Route 378.....	*29
Approximately 320 feet upstream of Main Street.....	*1,236	Briarcliffe Acres (town), Horry County (FEMA Docket No. 6923)		Crab Tree Swamp Tributary 3:	
Maps available for inspection at the residence of Brenda Webb, Borough Secretary, Alum Bank, Pennsylvania.		Atlantic Ocean:		At mouth.....	*17
Price (township), Monroe County (FEMA Docket No. 6920)		At intersection of Ocean View Drive and Cabana Road.....	*15	Just upstream of U.S. Route 501.....	*32
Broadhead Creek:		Along shoreline.....	*22	Cross Swamp:	
At downstream corporate limits.....	*573	Maps available for inspection at 79 Cedar Lane, Briarcliffe Acres, South Carolina.		At mouth.....	*21
Approximately 2 miles upstream from downstream corporate limits.....	*640	Conway (town), Horry County (FEMA Docket No. 6923)		About 1.56 miles upstream of U.S. Route 501.....	*33
At Alpine Mountain Ski Area access road.....	*706	Altman Branch:		Grier Swamp:	
Approximately 1.4 miles downstream from Snow Hill Road.....	*780	Within community.....	*22	At mouth.....	*12
At upstream corporate limits.....	*843	Crab Tree Swamp:		About 0.5 mile upstream of State Route 106.....	*13
Maps available for inspection at the Municipal Building, Barrea Road, East Stroudsburg, Pennsylvania.		About 2,800 feet downstream of CSX railroad.....	*12	Jenkins Swamp:	
Rockland (township), Berks County (FEMA Docket No. 6920)		About 500 feet upstream of U.S. Route 501.....	*16	About 1,300 feet downstream of confluence of Jenkins Swamp Tributary.....	*32
Sacony Creek:		Crab Tree Swamp Tributary:		About 1.5 miles upstream of confluence of Jenkins Swamp Tributary.....	*39
At downstream corporate limits.....	*470	At mouth.....	*12	Jenkins Swamp Tributary:	
Confluence of Little Sacony Creek.....	*552	Just upstream of Sixteenth Avenue.....	*21	At mouth.....	*33
Approximately 0.3 of a mile upstream of confluence of Little Sacony Creek.....	*582	Kingston Lake Swamp:		Just downstream of State Route 29.....	*41
		Within community.....	*12	Kingston Lake Swamp:	
				At mouth.....	*12
				Just downstream of State Route 19.....	*24
				Run of Plum Branch:	
				At mouth.....	*13
				About 1.1 miles upstream of mouth.....	*29
				Socastee Swamp:	
				At mouth.....	*6
				Just downstream of CSX railroad.....	*22
				Waccamaw River:	
				About 1.2 miles downstream of confluence of Prince Creek.....	*5
				About 1.1 miles upstream of Unnamed Road.....	*16
				Waccamaw River Tributary 1:	
				Just downstream of State Route 544.....	*24
				About 2,850 feet upstream of confluence of Waccamaw River Tributary 2.....	*37
				Waccamaw River Tributary 2:	
				At mouth.....	*30

Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
	About 1,900 feet upstream of Fox Hollow Sub-drive	*37	Surfside Beach (town), Horry County (FEMA Docket No. 6923)		At confluence of Brazil Branch	*436
*13	Waccamaw River Tributary 3:				Owl Creek:	
*24	Just upstream of Unnamed Road	*13			At mouth	*411
*10	Just upstream of State Route 544	*37	Atlantic Ocean:		Just downstream of Pope Drive	*451
*11	Waccamaw River Tributary 4:		At intersection of Seventh Avenue North and Myrtle Drive	*15	Town Branch:	
	At mouth	*19	Along shoreline	*23	At mouth	*415
	About 0.93 mile upstream of mouth	*38	Maps available for inspection at the Town Hall, 115 U.S. Highway 17, Surfside Beach, South Carolina.		About 1,750 feet upstream of downstream abandoned railroad grade	*424
	Unnamed Stream: About 1,400 feet upstream of U.S. Route 17	*18			Tributary A:	
	Waccamaw River Tributary (near Cox Ferry):				At mouth	*433
	About 2,800 feet downstream of Unnamed Road	*18	South Dakota		About 700 feet upstream of unnamed road	*436
*168	Just downstream of State Route 544	*43	Aberdeen (city), Brown County (FEMA Docket No. 6923)		Onemile Branch:	
*179	Waccamaw River Tributary (at Ransom's Bluff):				At mouth	*435
	Just upstream of State Route 136	*9			Just downstream of State Highway 22	*474
	Just upstream of Dirt Road	*21	Foot Creek:		Brazil Branch:	
	Willow Springs Branch:		Approximately 8,200 feet downstream of the confluence with Moccasin Creek	*1,292	At mouth	*436
	At mouth	*12	At the confluence with Moccasin Creek	*1,293	Just downstream of county road	*451
	About 0.93 mile upstream of mouth	*28	Approximately 200 feet upstream of the Chicago and Northwestern Railroad	*1,297	Wolf Creek:	
	Withers Swash:		Approximately 375 feet upstream of Melgaard Road	*1,298	About 500 feet upstream of mouth	*430
*16	Just upstream of 3rd Avenue South	*14	Approximately 240 feet downstream of the east-bound lane of U.S. Highway 12	*1,306	Just downstream of Life Road	*431
*31	Just downstream of CSX railroad	*17	Moccasin Creek:		Maps available for inspection at the County Executive's Office, County Courthouse, Lexington, Tennessee.	
	Withers Swash Tributary 2:		At the confluence with Foot Creek	*1,293		
*9	Just upstream of 8th Avenue North	*21	Approximately 200 feet downstream of Melgaard Road	*1,294	Lexington (city), Henderson County (FEMA Docket No. 6920)	
*21	Just downstream of 10th Avenue North	*23	At the confluence with Moccasin Creek Tributary	*1,297	Beech River:	
	Withers Swash Tributary 3:		Approximately 100 feet downstream of Brown County Highway 13	*1,299	Just upstream of confluence of Owl Creek	*411
	At mouth	*15	Approximately 5,650 feet upstream of Brown County Highway 13, just downstream of an unnamed county road	*1,300	About 650 feet upstream of State Highway 20	*437
*11	Just downstream of Rale Path Street	*24	Moccasin Creek Tributary:		Owl Creek:	
*17	Atlantic Ocean/Intercoastal Waterway:		At the confluence with Moccasin Creek	*1,297	Just upstream of mouth	*411
	About 2,000 feet south of intersection of Mill Pond Road and Peach Tree Road	*5	Approximately 150 feet upstream of the Chicago and Northwestern Railroad	*1,301	Just downstream of Pope Drive	*451
*18	About 400 feet east of intersection of Ocean Boulevard and Cypress Avenue	*23	Approximately 1,900 feet downstream of Brown County Highway 15	*1,301	Town Branch:	
*21	Maps available for inspection at the County Courthouse, Conway, South Carolina.		Maps available for review at the City Engineer's Office, 104 South Lincoln, Aberdeen, South Dakota.		Just upstream of mouth	*415
*7					About 1700 feet upstream of State Highway 20	*444
*22					About 1200 feet downstream of Madison Avenue	*451
*10	Myrtle Beach (city), Horry County (FEMA Docket No. 6923)				Just downstream of Madison Avenue	*454
*17	Atlantic Ocean:				Wolf Creek:	
*12	Just north of the intersection of The King's Boulevard and Ocean Boulevard	*13			At mouth	*430
*19	Along shoreline	*23			Just downstream of Life Road	*431
*16	Intercoastal Waterway: Within community	*7			Tributary A:	
*30	Withers Swash:				About 700 feet upstream of unnamed road	*436
	Just upstream of 3rd Avenue South	*14	Brown County (unincorporated areas) (FEMA Docket No. 6923)		Just downstream of State Highway 22	*445
*17	Just downstream of CSX railroad	*17			Onemile Branch:	
*29	Withers Swash Tributary 1:		Moccasin Creek: Approximately 120 feet upstream of an unnamed county road which is located approximately 5,650 feet upstream of Brown County Highway 13	*1,302	Just upstream of mouth	*435
*17	Just upstream of 5th Avenue South	*13			Just downstream of abandoned railroad	*491
*32	About 1,100 feet upstream of 13th Avenue South	*20	Maple River:		Brazil Branch:	
	Withers Swash Tributary 2:		Approximately 120 feet upstream of U.S. Highway 281	*1,365	At mouth	*436
*21	At mouth	*15	Approximately 190 feet downstream of Main Street at the Town of Frederick	*1,369	About 700 feet upstream of State Highway 20	*444
*33	Just downstream of 10th Avenue North	*23	Approximately 170 feet upstream of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Bridge located north of the Town of Frederick	*1,372	Maps available for inspection at the Mayor's Office, City Hall, Lexington, Tennessee.	
	Withers Swash Tributary 3:		James River:			
*12	At mouth	*15	Approximately 1,000 feet upstream of S34/35, R62W, T125N	*1,291	TEXAS	
*13	Just downstream of State Route 84	*15	Approximately 230 feet upstream of 6th Avenue located west of the City of Columbia	*1,293	Balmorhea (city), Reeves County (FEMA Docket No. 6923)	
	Just upstream of State Route 84	*20	Maps available for review at the Brown County Courthouse, 25 Market Street, Aberdeen, South Dakota.		Toyah Creek:	
*32	About 1,150 feet upstream of Carmon Road	*22			Approximately 720 feet downstream of the downstream corporate limits	*3,184
	Singleton Lake: Within community	*13			Approximately 1,340 feet upstream of the upstream corporate limits	*3,205
	Maps available for inspection at the City Hall, Myrtle Beach, South Carolina.				Maps available for inspection at the City Hall, San Antonio Street, Balmorhea, Texas.	
	North Myrtle Beach (town), Horry County (FEMA Docket No. 6923)				Caldwell (city), Burleson County (FEMA Docket No. 6923)	
	Atlantic Ocean:				Davidson Creek:	
	At intersection of U.S. Route 17 and 46th Avenue South	*13			Approximately 250 feet downstream of Southern Pacific Railroad	*322
	Along shoreline	*22			Approximately 0.5 mile upstream from the confluence with Copperas Hollow Creek	*332
	Unnamed Stream:		Tennessee		Davidson Creek Tributary 2:	
	About 800 feet upstream of Hillside Drive	*12	Greenback (city), Loudon County (FEMA Docket No. 6923)		At confluence with Davidson Creek	*331
	Just downstream of U.S. Route 17	*12			Approximately 40 feet upstream of Hill Street	*354
	Just upstream of U.S. Route 17	*17	Baker Creek:		Copperas Hollow Creek:	
	About 1,400 feet upstream of U.S. Route 17	*18	Just upstream of Sinking Creek Road	*815	At confluence with Davidson Creek	*331
	Intracoastal Waterway:		Just upstream of County Road	*847	Approximately 1.3 miles upstream of State Route 36	*367
	About 500 feet northwest of the intersection of 46th Avenue South and U.S. Route 17	*11	Maps available for inspection at the Community Center, Greenback, Tennessee.		Elm Branch:	
	At intersection of U.S. Route 17 and Sea Mountain Highway	*12			At downstream corporate limits	*381
	Maps available for inspection at the City Hall, 1015 Second Avenue, South, North Myrtle Beach, South Carolina.		Henderson County, (unincorporated areas) (FEMA Docket No. 6920)		At upstream corporate limits	*396
					Elm Branch Tributary 1:	
			Beech River:		Approximately 0.8 mile downstream of corporate limits	*361
			About 2,500 feet downstream of confluence of Owl Creek	*409	At downstream side of 8th Street	*377

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
At State Route 21 Limit of Detailed Study.....	*391	At upstream side of Missouri Pacific Railroad.....	*35	Roscoe (city), Nolan County (FEMA Docket No. 6923)	
Maps available for inspection at the City Hall, 107 S. Hill Street, Caldwell, Texas.		At upstream side of State Route 105.....	*54	<i>Lower West Playa Segment A:</i> Approximately 1,200 feet south of Texas and Pacific Railroad at west corporate limits.....	*2,382
Dayton (city), Liberty County (FEMA Docket No. 6906)		Approximately 500 feet upstream of confluence of Menard Creek.....	*78	<i>Shallow Flooding Area:</i> 800 feet north of Loop 237 at corporate limits.....	#1
<i>Trinity River:</i>		<i>Turtle Bayou:</i>		<i>Northwest Sector Playa:</i> Intersection of Cedar Street and 1st Street.....	*2,384
Southeast corner of community.....	*28	Approximately 0.6 mile downstream of Old Railroad Embankment.....	*30	<i>Shallow Flooding Area:</i> Intersection of Main Street and Second Street.....	#1
Northeast corner of community.....	*29	At access road approximately 3.7 miles upstream of Old Railroad Embankment.....	*41	<i>Shallow Flooding Area:</i> Approximately 400 feet southeast of corporate limits on Roscoe Snyder and Pacific Railroad.....	#1
Maps available for inspection at the City Hall, 111 North Church Street, Dayton, Texas.		Approximately 4.6 miles upstream of Old Railroad Embankment.....	*44	<i>Shallow Flooding Area:</i> Intersection of Ash Street and Sweetwater Street.....	#2
Hood County (unincorporated areas) (FEMA Docket No. 6923)		<i>Twin Ditches:</i>		<i>Shallow Flooding Area:</i> Approximately 75 feet north of Texas and Pacific Railroad at Oak Street (extended).....	#3
<i>Brazos River:</i>		Approximately 0.7 mile downstream of Atascocita Road.....	*61	<i>Loop 237 Playa:</i> Approximately 200 feet west of the intersection of Cedar and Seventh Streets.....	*2,384
Approximately 250 feet downstream of the downstream County boundary.....	*623	Approximately 1.2 miles upstream of Atascocita Road.....	*66	<i>Shallow Flooding Area:</i> Approximately 50 feet west of Cedar Street and 10th Street.....	#1
Approximately 2.4 miles upstream of Leonard Bridge.....	*660	<i>Upper East-Twin Ditch:</i>		<i>East Playa:</i> Intersection of State Route 608 and 5th Street.....	*2,386
<i>Lake Granbury:</i>		At confluence with Twin Ditches.....	*66	<i>Shallow Flooding Area:</i> Intersection of State Route 608 and 10th Street.....	#1
Approximately 5.3 miles downstream of the confluence of Lusk Branch.....	*695	Approximately 85 feet upstream of access road.....	*73	<i>Bandera Addition Playa:</i> Approximately 50 feet south of Interstate 20 at Cypress Street (extended).....	*2,392
Approximately 3.4 miles upstream of the confluence of Long Creek.....	*711	<i>East-West Dayton Ditch:</i>		Maps available for inspection at the City Hall, Roscoe, Texas.	
<i>Lambert Branch:</i>		Approximately 100 feet upstream of FM 1960.....	*78	UTAH	
Approximately 3.5 miles above confluence with Brazos River.....	*751	Approximately 1.4 miles upstream of FM 1960.....	*82	Provo (city), Utah County (FEMA Docket No. 6923)	
Approximately 60 feet upstream of the most upstream crossing of the City of Granbury corporate limits.....	*791	<i>West-West Dayton Ditch:</i>		<i>Provo River:</i>	
<i>Rough Creek:</i>		Approximately 100 feet upstream of FM 1960.....	*77	Approximately 1,140 feet upstream of Center Street.....	*4,495
Approximately 0.7 mile upstream of the confluence with Lake Granbury.....	*704	Approximately 1.4 miles upstream of FM 1960.....	*82	Approximately 3,300 feet upstream of Center Street.....	*4,496
Approximately 1.3 miles upstream of the confluence with Lake Granbury.....	*724	<i>Whiskey Branch:</i>		Approximately 140 feet downstream of Interstate Highway 15.....	*4,528
<i>Stream LB-1:</i>		At confluence with East Fork San Jacinto River.....	*126	Approximately 100 feet downstream of Columbia Lane.....	*4,580
At the downstream County boundary.....	*722	At upstream side of access road approximately 0.3 mile downstream of County boundary.....	*133	Approximately 100 feet upstream of the northbound lane of University Boulevard.....	*4,610
Approximately 0.4 mile upstream of the downstream County boundary.....	*726	At upstream County boundary.....	*148	Approximately 170 feet upstream of 3700 North Street.....	*4,691
Maps available for inspection at the County Courthouse, Room 7, Granbury, Texas.		<i>Willow Creek:</i>	*151	At 4800 North Street.....	*4,747
Liberty County (unincorporated areas) (FEMA Docket No. 6906)		Approximately 2.4 miles downstream of Hogpen Road.....	*44	Approximately 100 feet downstream of Carterville Road.....	*4,785
<i>Marsh Branch:</i>		At Hogpen Road.....	*48	<i>Rock Canyon Creek:</i>	
At confluence with Tarkington Bayou.....	*114	Approximately 2.3 miles upstream of confluence of Bull Tongue Creek.....	*54	Approximately 750 feet east of the intersection of 2620 North Street and Iroquois Drive.....	*4,960
At State Routes 105 and 321.....	*127	<i>Batiste Creek:</i>		Approximately 350 feet north of the intersection of 1450 North Street and 2320 North Street.....	#3
At downstream crossing of Pelican Road.....	*131	At confluence with Willow Creek.....	*49	<i>State Canyon Creek:</i>	
At upstream side of FM 787.....	*149	Approximately 1.8 miles upstream of confluence with Willow Creek.....	*54	Approximately 700 feet east of the intersection of 520 South Street and 1,450 East Street.....	*4,672
Approximately 1.4 miles upstream of Atchison, Topeka & Santa Fe Railway.....	*159	Approximately 0.9 mile upstream of confluence with Willow Creek.....	*50	Approximately 1,050 feet east of the intersection of 520 South Street and 1450 East Street.....	*4,695
<i>Marsh Branch Tributary No. 1:</i>		<i>Cedar Bayou:</i>		Approximately 300 feet east of the intersection of 640 South Street and 1500 East Street.....	*4,720
At confluence with Marsh Branch.....	*146	At southernmost County boundary.....	*37	Approximately 1,150 feet east of the intersection of 700 South Street and 1500 East Street.....	None
At downstream side of Atchison, Topeka & Santa Fe Railway.....	*153	Downstream side of Southern Pacific Railroad.....	*56	Maps available for review at the City of Provo Department of Community Development, 351 West Center Street, Provo, Utah.	
Approximately 1.1 miles upstream at Atchison, Topeka & Santa Fe Railway.....	*158	At County boundary approximately 0.4 mile upstream of Crosby-Eastgate Road.....	*84	VIRGINIA	
<i>Menard Creek:</i>		Approximately 900 feet upstream of Huffman Road.....	*71	Big Stone Gap (town), Wise County (FEMA Docket No. 6923)	
At confluence with Trinity River.....	*78	Approximately 0.8 mile upstream of access road approximately 5.5 miles of Huffman Road.....	*82	<i>Power River:</i>	
At access road approximately 2.3 miles downstream of State Route 146.....	*86	<i>Cow Branch:</i>		At downstream corporate limits.....	*1,464
At State Route 146.....	*96	At confluence with East Fork San Jacinto River.....	*100	At confluence with S. Fork Powell River.....	*1,470
At access road approximately 1.9 miles upstream of State Route 146.....	*102	Approximately 300 feet downstream of upstream County boundary.....	*111	At upstream corporate limits.....	*1,497
At upstream County boundary.....	*119	<i>East Fork San Jacinto River:</i>		<i>South Fork Powell River:</i>	
<i>Reese Bayou:</i>		Approximately 1.1 miles downstream of first downstream County boundary.....	*82	Approximately 300 feet downstream of U.S. Route 58-A.....	*1,470
At confluence with Tarkington Bayou.....	*142	At County boundary approximately 1.4 miles downstream of FM 2090.....	*93	At upstream corporate limits.....	*1,512
At upstream side of FM 787.....	*150	At confluence of Cow Branch.....	*100		
At downstream side of Lilley Avenue.....	*156	Downstream side of Southern Pacific Railroad.....	*121		
At downstream side of southbound U.S. Route 59.....	*159	Downstream side of State Route 105.....	*132		
At upstream County boundary.....	*168	At upstream County boundary.....	*142		
<i>Tarkington Bayou:</i>		<i>Hickory Island Gully:</i>			
At confluence with Luce Bayou.....	*92	Approximately 100 feet upstream of County boundary.....	*36		
At access road approximately 4.4 miles upstream of confluence with Luce Bayou.....	*98	Approximately 4.2 miles upstream of Hatcher-ville Road.....	*53		
At confluence of Marsh Branch.....	*114	<i>Luce Bayou:</i>			
At downstream side of Gulf Road.....	*120	At County boundary.....	*67		
At upstream side of State Routes 321 and 105.....	*134	Approximately 4.6 miles upstream of County boundary.....	*80		
At confluence of Reese Bayou.....	*142	At confluence with Tarkington Bayou.....	*92		
At upstream side of Atchison, Topeka & Santa Fe Railway.....	*149	Approximately 3.2 miles upstream of State route 321.....	*103		
At upstream County boundary.....	*161	Downstream side of FM 1008.....	*114		
<i>Trinity River:</i>		Maps available for inspection at 2103 Cos. Liberty, Texas.			
At downstream County boundary.....	*15				

Depth
feet
above
ground.
Elevation
in feet
(NGVD)

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the Town Hall, 112 East 5th Street, Big Stone Gap, Virginia.	
Buchanan County (FEMA Docket No. 6709)	
<i>Levisa Fork:</i>	
Downstream County boundary	*867
Upstream side of State Route 645	*904
Upstream side of State Route 609	*967
Confluence of Looney Creek	*1,005
At downstream Grundy corporate limits	*1,037
Upstream side of State Route 617	*1,093
Upstream side of State Route 83	*1,122
Upstream side of Norfolk and Western Railway (3rd upstream crossing)	*1,183
Approximately 0.72 mile upstream of State Route 684	*1,218
Approximately 1.85 miles upstream of State Route 684	*1,265
Upstream side of State Route 668	*1,321
Approximately 300 feet upstream confluence of Bridge Branch	*1,368
Upstream side of U.S. Route 460	*1,433
Approximately 0.8 mile upstream of U.S. Route 460	*1,475
<i>Knox Creek:</i>	
Approximately 425 feet downstream of State Route 697	*924
Upstream side of State Route 609	*966
Approximately 1.1 miles upstream of State Route 650	*1,011
Upstream side of State Route 643 (2nd up- stream crossing)	*1,083
Upstream side of State Route 706	*1,140
Upstream side of State Route 652	*1,171
Approximately 1.13 miles upstream of State Route 652	*1,219
Approximately 2.12 miles upstream of State Route 652	*1,274
<i>Russell Fork:</i>	
Approximately 1.15 miles downstream of State Route 80	*1,432
Approximately 1.7 miles upstream of State Route 80	*1,465
Approximately 2.55 miles upstream of State Route 80	*1,502
<i>Dismal Creek:</i>	
Approximately 1.76 miles downstream of State Route 628	*1,560
Upstream side of State Route 628	*1,600
Approximately 1 mile upstream of State Route 628	*1,617
Approximately 2.15 miles upstream of State Route 628	*1,648
<i>Big Prater Creek/Trace Fork Branch:</i>	
At confluence with Levisa Fork	*1,123
Approximately 1.04 miles upstream confluence with Levisa Fork	*1,170
Approximately 0.57 mile downstream confluence of Big Lick Branch	*1,200
At confluence of Big Lick Branch	*1,244
Approximately 0.60 mile upstream confluence of Big Lick Branch	*1,300
<i>Tug Fork:</i>	
At downstream State boundary	*829
Approximately 1.92 miles upstream of the downstream State boundary	*861
At upstream State boundary	*919
Maps available for inspection at the County Administrator's Office, County Courthouse, Main Street, Grundy, Virginia.	
WASHINGTON	
Almira (town), Lincoln County (FEMA Docket No. 6923)	
<i>Corbett Draw Tributary:</i>	
At downstream corporate limits	*1,899
Just upstream of Main Street	*1,911
Just upstream of Burlington Northern Railroad	*1,919
At upstream corporate limits	*1,930
Maps are available for review at Town Hall, 19 North Third, Almira, Washington.	

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Davenport (city), Lincoln County (FEMA Docket No. 6923)	
<i>Cottonwood Creek:</i>	
At downstream corporate limits	*2,358
Just downstream of U.S. Highway 2	*2,375
Just downstream of Harker Street	*2,381
About 75 feet upstream of Third Street	*2,388
At upstream corporate limits	*2,391
Maps are available for review at City Hall, 411 Morgan Street, Davenport, Washington.	
Ephrata (city), Grant County (FEMA Docket No. 6923)	
<i>Dry Creek: On Division Avenue NW</i>	
#1	
Maps are available for review at City Hall, 121 Alder SW., Ephrata, Washington.	
Grant County (unincorporated areas) (FEMA Docket No. 6923)	
<i>Parker Horn:</i>	
Approximately 240 feet downstream of Chicago, Milwaukee, St. Paul, and Pacific Railroad	*1,053
Approximately 1,410 feet upstream of State Highway 17	*1,057
<i>Crab Creek (near the town of Moses Lake):</i>	
Approximately 1,410 feet upstream of State Highway 17	*1,057
At Gloyd Seeps Water Recreation Area	*1,078
<i>Crab Creek (near the town of Wilson Creek):</i>	
Approximately 2,900 feet downstream of the Kappel Road Bridge	*1,278
Approximately 5,160 feet upstream of the Kappel Road Bridge	*1,281
Maps are available for review at the Grant County Public Works Department, 34 C Street, NW., Ephrata, Washington.	
Lincoln County (unincorporated areas) (FEMA Docket No. 6923)	
<i>Goose Creek:</i>	
Approximately 1,250 feet below downstream corporate limits of Town of Wilbur	*2,156
Approximately 200 feet below downstream co- porate limits of Town of Wilbur	*2,157
<i>Davis Creek:</i>	
Approximately 1,100 feet below downstream corporate limits of Town of Almira	*1,887
Approximately 300 feet below downstream co- porate limits of Town of Almira	*1,895
Approximately 350 feet above upstream corpo- rate limits of Town of Almira	*1,931
<i>Cottonwood Creek:</i>	
Approximately 200 feet downstream of County Road bridge at Section line 16/17 in T25N, R37E	*2,345
Approximately 200 feet below downstream corpo- rate limits of City of Davenport	*2,355
Approximately 330 feet above upstream corpo- rate limits of City of Davenport	*2,392
<i>Crab Creek:</i>	
Approximately 4,200 feet below downstream corporate limits of Town of Odessa	*1,533
Approximately 350 feet below downstream corpo- rate limits of Town of Odessa	*1,539
Approximately 400 feet above upstream corpo- rate limits of Town of Odessa	*1,559
Approximately 2,600 feet above upstream corpo- rate limits of Town of Odessa	*1,567
<i>Negro Creek:</i>	
Approximately 1,950 feet below downstream corporate limits of City of Sprague	*1,894
Approximately 150 feet above upstream corpo- rate limits of City of Sprague	*1,903
Maps are available for review at the Lincoln County Engineer's Office, 509 Morgan Street, Davenport, Washington.	
Odessa (town), Lincoln County (FEMA Docket No. 6923)	
<i>Crab Creek:</i>	
At downstream corporate limit	*1,540
Just downstream of Alder Street	*1,545

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
At centerline of Fifth Street	*1,550
At confluence of Duck Creek	*1,552
Just upstream of Dobson Road	*1,558
Maps are available for review at Town Hall, 21 East First Avenue, Odessa, Washington.	
Sprague (city), Lincoln County (FEMA Docket No. 6923)	
<i>Negro Creek:</i>	
At downstream corporate limit	*1,895
Just downstream of North First Street	*1,898
Approximately 100 feet upstream of First and D Streets intersection bridge	*1,900
At upstream of corporate limits	*1,903
Maps are available for review at the City Hall, Second and C Streets, Sprague, Washington.	
Wilbur (town), Lincoln County (FEMA Docket No. 6923)	
<i>Goose Creek (at Wilbur):</i>	
At downstream corporate limits	*2,157
At centerline of West Street	*2,163
Just upstream of Division Street	*2,168
At centerline of U.S. Highway 2	*2,174
At upstream corporate limit	*2,176
Maps are available for review at Town Hall, 14 NW. Division, Wilbur, Washington.	

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
ARIZONA	
Mohave County (unincorporated areas) (FEMA Docket No. 6906)	
<i>Colorado River:</i>	
Main Channel, downstream limit of detailed study (River Mile 242.4)	*474
Main Channel, 2650 feet downstream of Nee- dles Bridge (River Mile 245.65)	*479
Main Channel, 16300 feet upstream of Needles Bridge (River Mile 249.2)	*483
Main Channel, upstream limit of detailed study (River Mile 252.4)	*486
At the intersection of Barrackman Road and Plantation Drive	#1
At the southern intersection of Hamilton Drive and Plantation Drive	#2
<i>Topock Marsh:</i>	
Entire area	*460
Maps available for inspection at the Mohave County Courthouse, 401 Spring Street, King- man, Arizona.	
CALIFORNIA	
Merced County, (unincorporated areas) (FEMA Docket No. 6920)	
<i>Fahrens Creek:</i>	
Approximately 100 feet above northern corpo- rate limit of the City of Merced	*167
Approximately 6,000 feet upstream of confluence with Cottonwood Creek	*173
Approximately 50 feet downstream of Bellvue Avenue	*176
Approximately 100 feet downstream of G Street	*185

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Approximately 1,000 feet west of intersection of Cardella Road and G Street	#1	Approximately 10 feet downstream of Komohana Street	*313	Approximately 100 feet downstream of Hawaii Belt Road	*1,374
Canal Creek (with Levee):		Approximately 100 feet upstream of Kawaihewa Street	*471	Honokaa Drainage No. 3:	
Approximately 450 feet downstream of Landram Avenue	*142	Approximately 1580 feet upstream of Kupulau Road	*628	60 feet downstream of Mamane Street	*1,096
Approximately 800 feet downstream of Avenue One	*159	Waiakaa Tributary No. 1:		Approximately 100 feet downstream of Hawaii Belt Road	*1,457
Approximately 200 feet downstream of Avenue Two	*165	At confluence with Waiakaa Stream	*312	Honokaa Drainage A:	
Approximately 2,500 feet upstream of Santa Fe Drive	*173	400 feet upstream of Komohala Drive	*368	90 feet downstream of Mamane Street	*1,069
Canal Creek (without Levee):		200 feet upstream of Malanani Place	*385	150 feet upstream of Mamalahoa Highway	*1,269
Approximately 190 feet upstream of Landram Avenue	*148	Approximately 100 feet downstream of Kawaihewa Street	*440	Honokaa Drainage B:	
Approximately 1,560 feet upstream of Elliot Avenue	*151	Waiakaa Tributary No. 2:		75 feet downstream of Mamane Street	*1,095
Approximately 1,120 feet upstream of State Highway 99 northbound	*155	At confluence with Waiakaa Stream	*321	400 feet upstream of Ohia Street	*1,153
Approximately 190 feet downstream of Avenue One	*160	At centerline of Komohala Drive	*370	Honokaa Drainage C:	
Approximately 3,500 feet south of Avenue One and approximately 1,500 feet west of Gurr Road	#1	Approximately 3000 feet upstream of Komohala Drive	*441	170 feet downstream of Mamane Street	*1,087
Approximately 1,000 feet east of the intersection of Fox Road and Cardella Road	#1	Waiakaa Tributary No. 3:		130 feet upstream of Mamane Street	*1,112
Approximately 3,000 feet west of the intersection of Gurr Road and Avenue Two	#1	Approximately 20 feet upstream of confluence with Waiakaa Stream	*361	Honokaa Drainage D:	
Black Rascal Creek Reach 1 (with Levee):		Approximately 2700 feet upstream of confluence with Waiakaa Stream	*402	Approximately 1380 feet downstream of Mamalahoa Highway	*1,186
Approximately 75 feet upstream of State Highway 140	*137	Approximately 5200 feet upstream of confluence with Waiakaa Stream	*475	Approximately 950 feet downstream of Mamalahoa Highway	*1,228
Approximately 3,880 feet upstream of State Highway 140	*146	Palai Stream:		Keopu Drainageway:	
Approximately 210 feet downstream of confluence with Canal Creek	*150	Approximately 160 feet upstream of confluence with Waiakaa Pond	*10	60 feet downstream of Alii Drive	*9
Black Rascal Creek Reach 1 (without Levee):		200 feet upstream of West Kawaihewa Street	*41	40 feet upstream of Hawaii Belt Road	*222
Approximately 120 feet upstream of State Highway 140	*140	At Kahaopea Road	*89	Approximately 2350 feet downstream of Mamalahoa Highway	*1,140
Approximately 720 feet downstream of confluence with Canal Creek	*147	At confluence with Four Mile Creek	*140	Just upstream of Mamalahoa Highway	*1,520
Black Rascal Creek Reach 2:		Approximately 70 feet upstream of Kinole Street	*197	1970 feet upstream of Mamalahoa Highway	*1,814
Approximately 270 feet upstream of confluence with Bear Creek	*163	Palai Stream (Above Haihai Street):		Keopu Drainageway Overflow:	
Approximately 1,220 feet upstream of confluence with Bear Creek	*163	100 feet upstream of Haihai	*460	410 feet downstream of Alii Overflow Drive	*10
Black Rascal Creek Reach 3:		50 feet upstream of Leimano Street	*516	60 feet upstream of Hawaii Belt Road	*167
Approximately 1,100 feet upstream of Santa Fe Drive	*165	30 feet upstream of Alaioa Road	*580	At divergence from Keopu Drainageway	*563
Trindade Drain:		Approximately 1130 feet upstream of Alaioa Street	*649	Hienaloli Drainageway:	
At the intersection of Lobo Avenue and Franklin Road	#1	Palai Stream A:		340 feet upstream of Kuakini Highway (State Highway 11)	*49
Bear Creek:		Approximately 1930 feet downstream of Momi Street	*582	40 feet upstream of Hawaii Belt Road	*250
Approximately 400 feet upstream of State Highway 140	*150	80 feet downstream of Momi Street	*620	15 feet upstream of Mamalahoa Highway	*1,492
Approximately 940 feet downstream of confluence with Black Rascal Creek, Reach 2	*161	Approximately 650 feet upstream of Ainaloa Drive	*650	3060 feet upstream of Mamalahoa Highway	*1,860
Approximately 300 feet downstream from State Highway 99	*163	Palai Stream B:		Hienaloli Drainageway Splitflow:	
Approximately 1,000 feet north of Crocker Dam	#1	At confluence with Palai Stream	*564	At confluence with Hienaloli Drainageway	*150
At the intersection of McKee Road and Stretch Road	#1	100 feet upstream of Momi Street	*624	270 feet upstream of Hawaii Belt Road	*262
Miles Creek (With Levee):		Palai Stream C:		Waiaha Drainageway:	
Just downstream of Santa Fe Avenue	*229	At Haihai Street	*563	Centerline of Alii Drive	*16
At Childs Avenue	*234	Approximately 900 feet upstream of Kupulau Road	*631	60 feet downstream of Hawaii Belt Road	*357
Approximately 1,800 feet upstream of Childs Avenue	*238	Palai Stream D:		20 feet upstream of Mamalahoa Highway	*1,500
Miles Creek (Overbank):		At confluence with Palai Stream	*580	3240 feet upstream of Mamalahoa Highway	*1,978
Just downstream of Santa Fe Avenue	*228	Approximately 2500 feet upstream of confluence with Palai Stream	*690	Waiaha Drainageway Tributary:	
At the intersection of Stafford Avenue and Sutter Street	*228	Palai Stream E:		At confluence with Waiaha Drainageway	*1,447
Approximately 500 feet east of Kraft Road Extended	*230	At confluence with Palai Stream	*572	30 feet upstream of Mamalahoa Highway	*1,500
Just upstream of Childs Avenue	*233	Approximately 1200 upstream of Alaioa Road	*649	2085 feet upstream of Mamalahoa Highway	*1,805
Approximately 1,925 feet upstream of Childs Avenue	*235	Palai Stream F:		Waiaha Drainageway Splitflow No. 1:	
Approximately 4,000 feet east of the intersection of State Highway 140 and Wheeler Road Extended	#6	At confluence with Palai Stream	*500	At confluence with Waiaha Drainageway	*357
Livingston Canal:		840 feet upstream of confluence with Palai Stream	*537	At centerline of Hualalai Road	*432
Between Avenue Two and Livingston Canal	*165	Four Mile Creek:		1820 feet upstream of Hualalai Road	*528
Maps available for review at the Merced County Planning Department, 2222 M Street, Merced, California		240 feet downstream of Kanoehue Avenue	*184	Waiaha Drainageway Splitflow No. 2:	
		At confluence of Four Mile Creek Tributary No. 1	*203	640 feet downstream of Alii Drive	*11
		540 feet upstream of confluence with Four Mile Creek Tributary No. 2	*285	100 feet upstream of Hawaii Belt Road	*315
		650 feet upstream of Ainalako Road	*540	At divergence from Waiaha Drainageway	*587
		Four Mile Creek Tributary No. 1:		Waiaha Drainageway Splitflow No. 3:	
		At confluence with Four Mile Creek	*203	At confluence with Waiaha Drainageway	*41
		Approximately 1600 feet upstream of confluence with Four Mile Creek	*245	50 feet upstream of Kuakini Highway (State Highway 11)	*137
		Four Mile Creek Tributary No. 2:		At divergence of Waiaha Drainageway	*166
		2000 feet upstream of confluence with Four Mile Creek	#1	Holualoa Drainageway:	
		Four Mile Creek Tributary No. 3:		45 feet upstream of Alii Drive	*11
		At confluence with Four Mile Creek	*527	60 feet upstream of Hawaii Belt Road	*322
		930 feet upstream of Ainalako Road	*547	20 feet downstream of Hualalai Road	*980
		Honokaa Drainage No. 1:		2935 feet upstream of Mamalahoa Highway	*1,704
		60 feet downstream of Mamane Street	*1,091	Holualoa Drainageway Tributary:	
		70 feet upstream of Mamalahoa Highway	*1,340	At confluence with Holualoa Drainageway	*1193
		Approximately 960 feet upstream of Mamalahoa Highway	*1,423	380 feet upstream of Mamalahoa Highway	*1392
		Honokaa Drainage No. 2:		Horseshoe Bend Drainageway:	
		350 feet downstream of Koa Street	*1,012	At confluence with Holualoa Drainageway	*164
		40 feet upstream of Lehua Street	*1,254	70 feet downstream of Hawaii Belt Road	*340
				15 feet upstream of Hualalai Road	*870
				50 feet upstream of Mamalahoa Highway	*1452
				720 feet upstream of Mamalahoa Highway	*1579
				Kaumalumu Drainageway:	
				20 feet downstream of Alii Drive	*12
				At centerline of Kuakini Highway (State Highway 11)	*452
				15 feet upstream of Mamalahoa Highway	*1082
				2740 feet upstream of Mamalahoa Highway	*1538
				South Kona Watercourse No. 1:	
				At mouth	*14
				At centerline of Mamalahoa Highway	*1512
				Approximately 6390 feet upstream of Mamalahoa Highway	*2184
				South Kona Watercourse No. 3:	

HAWAII

Hawaii County (FEMA Docket No. 6909)

Waiakaa Stream:

At Kilaua Avenue

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
At mouth.....	*14	At upstream corporate limits.....	*203	Approximately 1.0 mile upstream of State Route 121.....	*482
20 feet upstream of Mamalahoa Highway.....	*1380	<i>Western Run:</i>		<i>Timber Creek:</i>	
Approximately 7250 feet upstream of Mamalahoa Highway.....	*2224	At confluence with Jones Falls.....	*200	At confluence with Elm Fork Trinity River.....	*451
<i>South Kona Watercourse No. 7:</i>		Upstream side of Poplin Avenue.....	*241	Approximately 1,000 feet upstream of downstream crossing of Interstate Route 35E main lanes.....	*453
At confluence with South Kona Watercourse No. 8.....	*440	Upstream side of Bonnie View Drive culvert.....	*276	At Round Grove Road.....	*454
At centerline of Mamalahoa Highway.....	*1445	Upstream side of Pimlico Road.....	*322	Just upstream of upstream crossing of Interstate Route 35E main lanes.....	*456
Approximately 5990 feet upstream of Mamalahoa Highway.....	*2678	Upstream side of Taney Road.....	*371	Approximately 100 feet upstream of State Route 121.....	*476
<i>South Kona Watercourse No. 8:</i>		Upstream side of Bancroft Road culvert.....	*407	Approximately 0.74 mile upstream of the confluence of Stream TC-1.....	*485
95 feet above mouth.....	*15	Approximately 880 feet upstream of Clarks Lane.....	*424	Upstream side of Valley Parkway.....	*512
At centerline of Mamalahoa Highway.....	*1420	<i>Maidens Choice Run:</i>		Approximately 400 feet upstream of the confluence of Stream TC-2.....	*535
Approximately 5620 feet upstream of Mamalahoa Highway.....	*2714	Confluence with Gwynns Falls.....	*47	<i>Timber Creek Relief Channel:</i>	
<i>South Kona Watercourse No. 19:</i>		Upstream side of Wilkens Avenue culvert.....	*81	At confluence with Timber Creek.....	*454
At confluence with South Kona Watercourse No. 20.....	*720	Upstream side of Caton Avenue culvert.....	*111	At divergence of flooding from Timber Creek.....	*462
20 feet upstream of Mamalahoa Highway.....	*964	Upstream side of Cemetery Road (2nd upstream crossing).....	*138	<i>Stream TC-1:</i>	
Approximately 2820 feet upstream of Mamalahoa Highway.....	*1395	Upstream side of Yale Avenue culvert.....	*160	At confluence with Timber Creek.....	*477
<i>South Kona Watercourse No. 20:</i>		Downstream side of Beechfield Avenue culvert.....	*173	Upstream side of Bellaire Boulevard.....	*500
25 feet upstream of mouth.....	*10	<i>Moore's Run:</i>		Upstream side of Edmonds Lane.....	*537
At centerline of Mamalahoa Highway.....	*928	At downstream corporate limits.....	*11	<i>Stream TC-2:</i>	
Approximately 2750 feet upstream of Mamalahoa Highway.....	*1340	Upstream side of southbound lane of Interstate Route 895.....	*30	At confluence with Timber Creek.....	*534
<i>South Kona Watercourse No. 24:</i>		Approximately 30 feet upstream of Radecke Avenue.....	*57	Approximately 965 feet upstream of confluence with Timber Creek.....	*535
At confluence with South Kona Watercourse No. 25.....	*680	Approximately 0.5 mile upstream of Radecke Avenue.....	*91	<i>Prairie Creek:</i>	
At centerline of Mamalahoa Highway.....	*866	<i>Gwynns Run:</i>		At confluence with Elm Fork Trinity River.....	*462
Approximately 1850 feet upstream of Mamalahoa Highway.....	*1131	Upstream side of Gwynns Falls Parkway culvert.....	*207	Upstream side of Interstate Route 35E southbound lane.....	*521
<i>South Kona Watercourse No. 25:</i>		Approximately 1,925 feet upstream of Gwynns Falls Parkway culvert.....	*258	Upstream side of Kirkpatrick Lane.....	*573
100 feet upstream of mouth.....	*9	<i>Stony Run:</i>		<i>Stream PC-1:</i>	
At centerline of Hookena Road.....	*400	Upstream side of University Parkway.....	*209	At confluence with Prairie Creek.....	*502
Approximately 1200 feet upstream of Mamalahoa Highway.....	*1065	Upstream side of Overhill Road culvert.....	*236	Approximately 120 feet downstream of Atchison, Topeka, and Santa Fe Railroad.....	*521
Maps are available for inspection at Hawaii County Department of Public Works, 25 Auupui Street, Hilo, Hawaii.		Upstream side of Cold Spring Lane culvert.....	*252	Approximately 420 feet upstream of the Atchison, Topeka, and Santa Fe Railroad.....	*532
		Downstream side of Wyndhurst Avenue.....	*309	<i>Stream PC-2:</i>	
		Approximately 0.4 mile upstream of Wyndhurst Avenue.....	*346	At confluence with Prairie Creek.....	*521
		Approximately 0.6 mile upstream of Wyndhurst Avenue.....	*360	Upstream side of Valley Parkway.....	*554
		<i>Biddison Run:</i>		<i>Stream PC-3:</i>	
		Approximately 40 feet upstream of confluence with Herring Run.....	*26	A confluence with Prairie Creek.....	*542
		Upstream side of Park Drive culvert.....	*52	Approximately 70 feet upstream of Topeka Street.....	*547
		Upstream side of Goodnow Road culvert.....	*78	<i>Copperas Branch:</i>	
		Approximately 0.6 mile upstream of Goodnow Road culvert.....	*96	At confluence with Lake Lewisville.....	*537
		Maps available for inspection at the Planning Department, 222 East Saratoga Street, 8th Floor, Baltimore, Maryland.		Downstream side of Brazos Boulevard.....	*547
				Approximately 550 feet upstream of Cripple Creek Road.....	*571
				Maps available for inspection at the Department of Public Works, 1000 North Kealey, Lewisville, Texas.	
MARYLAND		TEXAS			
Baltimore (city), Independent City (FEMA Docket No. 6902)		Lewisville (city), Dallas and Denton Counties (FEMA Docket No. 6912)			
<i>Gwynns Falls (1st Reach):</i>		<i>Elm Fork Trinity River (West Side):</i>			
At confluence with Middle Branch Patapsco River.....	*8	At confluence of Timber Creek.....	*451		
Upstream side of Washington Street.....	*27	At confluence of Midway Branch.....	*456		
At confluence with Gwynns Run.....	*34	Approximately 400 feet downstream of State Route 121.....	*461		
Approximately 1,260 feet upstream of U.S. Route 1.....	*51	At confluence of Prairie Creek.....	*462		
<i>Gwynns Falls (2nd Reach):</i>		<i>Elm Fork Trinity River West Split Flow Area Around Downstream Floodway Landfill:</i>			
Upstream side of Windsor Mill Road.....	*171	At confluence with Elm Fork Trinity River Main Channel.....	*454		
Approximately 0.5 mile upstream of Windsor Mill Road.....	*210	At divergence from Elm Fork Trinity River Main Channel.....	*459		
Downstream side of dam.....	*245	<i>Lake Lewisville Spillway:</i>			
Approximately 235 feet upstream of corporate limits.....	*285	At confluence with Elm Fork Trinity River.....	*461		
<i>Jones Falls:</i>					
At confluence with Northwest Harbor.....	*8				
Upstream side of Interstate Route 83 culvert.....	*51				
At 28th Street.....	*83				
Upstream side of Falls Road Ramps.....	*134				
Upstream side of CONRAIL (1st upstream crossing).....	*170				
Approximately 550 feet upstream of Northern Parkway.....	*194				

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: April 19, 1988.

[FR Doc. 88-11830 Filed 5-27-88; 8:45 am]

BILLING CODE 6718-21-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 056CE, Notice No. 23-ACE-041A]

Special Conditions; GROB Model 115 Series Airplanes; Re-opening of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Re-opening of comment period.

SUMMARY: This notice re-opens the comment period for the submission of public comments relating to Notice 23-ACE-041 (53 FR 13283, April 22, 1988) which was to close on May 23, 1988. That notice proposed special conditions for the GROB Model 115 Series Airplanes. The FAA has determined that it would be in the public interest to re-open the comment period for an additional 90 days to allow coordination with foreign entities.

DATE: Comments must be received on or before August 22, 1988.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 056CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 056CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Bobby W. Sexton, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 426-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action on this proposal. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 056CE." The postcard will be data stamped and returned to the commenter. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice and Notice 23-ACE-041 (previously published in the *Federal Register* on April 22, 1988 (53 FR 13283)) by submitting a request to the Federal Aviation Administration, Standards Office, ACE-110, ATTN: ACE-112, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, MO 64106, or by calling (816) 426-5688.

Communications must identify the notice number of this NPRM.

Background

On June 23, 1986, GROB Werke GmbH and Company KG, Flugzeugbau, Am Flugplatz, D-8939 Mattsies, Federal Republic of Germany, made application to the FAA for a type certificate for the GROB Model 115 Airplane. The GROB Model 115 will be a two-place, single-engine airplane with tricycle landing gear, a gross weight of 1874 pounds, and constructed using composite material in the primary structure.

Federal Register

Vol. 53, No. 104

Tuesday, May 31, 1988

The proposed type design of the GROB Model 115 Airplane contains a novel or unusual design feature not envisaged by the applicable Part 23 airworthiness standards. Special conditions are considered necessary because the airworthiness standards of Part 23 do not contain adequate or appropriate safety standards for the novel or unusual design feature of the GROB Model 115 Airplane.

A notice of proposed special conditions was published in the *Federal Register* on April 22, 1988, 53 FR 13283. The comment period closed May 23, 1988.

The FAA has reviewed this notice of proposed special conditions and determined that the original closing date for the comment period does not allow sufficient time to receive comments from foreign entities and that re-opening the comment period would afford those commenters the opportunity to participate in the development of these special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aircraft, Air transportation, Aviation safety, Safety.

Extension of Comment Period

In consideration of the coordination required with foreign entities, the FAA concludes that re-opening the comment period for an additional 90 days would serve the public interest. Accordingly, the comment period for Notice 23-ACE-041 is re-opened. The comment period will close August 22, 1988.

The authority citation for this special condition is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

Issued in Kansas City, Missouri on May 16, 1988.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 88-12067 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-12-AD]

Airworthiness Directives; Beech Models F33A, A36, and B36TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Beech Models F33A, A36, and B36TC airplanes which would require removal of the Mortell 931 sound deadener on the aft side of the firewall. The FAA has determined that this sound deadener material may ignite in the event of a fire in the engine compartment. The proposed action will reduce the possibility of injury to the pilot and possible loss of control of the airplane.

DATE: Comments must be received on or before August 1, 1988.

ADDRESSES: Beech Service Bulletin Number 2249, dated April 1988, applicable to this AD may be obtained from Beech Aircraft Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas 67201-0085 or may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88-CE-12-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Larry Engler, Federal Aviation Administration, Wichita Aircraft Certification Office, ACE-120W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the

light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 88-CE-12-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Mortell 931 sound deadener material is used on the cabin side of the engine firewall on certain Beech Models F33A, A36, and B36TC airplanes. Recent flammability tests of a firewall with the Mortell 931 material applied to the cabin side revealed the material would ignite when the engine side of the firewall is subjected to a 2000°F flame, the intensity required to substantiate the adequacy of firewall materials to contain an engine compartment fire. In the event an engine compartment fire ignited the Mortell 931 Material, the resulting fire inside the cabin could cause injury to the pilot and a potential loss of airplane control. To prevent such occurrence, Beech has developed Service Bulletin Number 2249 dated April 1988, that defines procedures to remove the Mortell 931 sound deadener from the aft (cabin) side of the firewall. Since the condition described is likely to exist or develop in other Beech Models of the same design, the proposed AD would require certain Beech Models F33A, A36 and B36TC airplanes to comply with Beech Service Bulletin Number 2249, dated April 1988.

The FAA has determined there are approximately 94 airplanes affected by the proposed AD. The cost of modifying those airplanes is estimated to be \$1,350 per airplane for a total cost of \$127,000. This cost will be absorbed by Beech Aircraft Corporation under warranty provisions specified in the Service Bulletin Number 2249 dated April 1988. Few, if any, small entities, therefore, are expected to own a sufficient number of airplanes that the cost to them will exceed the threshold for Regulatory Flexibility action.

Therefore, I certify that this action (1) is not a major rule under the provisions

of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposed to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to Beech airplanes listed below, certificated in any category:

Model	Serial No.
F33A.....	CE-1162 through CE-1223.
A36.....	E-2383 through E-2405, E-2407 through E-2409.
B36TC.....	EA-468 through EA-470, EA-472 through EA-474.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent a potential fire in the cabin, accomplish the following:

(a) Remove the Mortell 931 sound deadener material from the aft side of the firewall in accordance with the instructions in Beech Service Bulletin Number 2249 dated April 1988.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the manager, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4400.

All persons affected by this Directive may obtain copies of the documents referred to herein upon request to Beechcraft Aero and Aviation Centers; Beech Aircraft

Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas, 67201-0085, or may examine these documents at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 17, 1988.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88-12070 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-52-AD]

Airworthiness Directives; Boeing Model 737-100 and -200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to Boeing Model 737-100 and -200 series airplanes, which currently requires inspections for cracks in the aft engine mount cone bolt, and replacement, if necessary. This action would require installation of an aft engine mount secondary support, installation of an aft mount cone bolt failure indicator, and continuing inspections of the aft mount indicator. Incorporation of these items would constitute terminating action for the currently required inspections. This action is necessary to prevent separation of an engine in the event of an aft mount cone bolt failure.

DATE: Comments must be received no later than July 22, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-52-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Baillie, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing Address: FAA, Northwest

Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-52-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On December 24, 1987, the FAA issued AD 88-01-07, Amendment 39-5826 (53 FR 9; January 4, 1988), to require inspection for cracks in the aft engine mount cone bolt, and replacement, if necessary, on Boeing Model 737-100 and 737-200 series airplanes. That action was taken as a result of a cone bolt failure that resulted in an engine separation.

Since issuance of that AD, the FAA has determined that installation of an aft engine mount secondary support, along with an aft mount cone bolt failure indicator, would be necessary to provide an acceptable level of safety and prevent inadvertent engine separation due to a failed cone bolt. These installations, in conjunction with ongoing inspections of the aft amount indicator, will provide terminating action for the inspections currently required.

The FAA has reviewed and approved Boeing Service Bulletin 737-71-1069, Revision 1, dated May 19, 1988, which describes procedures for installation of

the aft engine mount secondary support and cone bolt failure indicator.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require installation of an aft engine mount secondary support and cone bolt failure indicator, in accordance with the service bulletin previously mentioned, and establishment of procedures for checking for cone bolt integrity.

It is estimated that 432 airplanes of U.S. registry would be affected by this AD, that it would take an average of approximately 24 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$414,720.

The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*) which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 16, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 737 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 88-01-07, Amendment 39-5826 (53 FR 9: January 4, 1988), to add a new paragraph B., and reidentify existing paragraphs B. and C. as C. and D., respectively, to read as follows:

Boeing: Applies to all Model 737-100 and -200 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent inadvertent separation of the engine from the airplane, accomplish the following:

A. Within the next 300 landings after the effective date of Amendment 39-5826 (which is January 25, 1988), and thereafter at intervals not to exceed 600 landings, inspect for cracks in the aft engine mount cone bolt in accordance with Boeing Alert Bulletin 737-71A1212, dated December 22, 1987, using ultrasonic inspection techniques. Replace cracked cone bolts, prior to further flight, with bolts that have been inspected in accordance with the Boeing Alert Service Bulletin previously mentioned, using magnetic particle inspection techniques. Replacement cone bolts must be ultrasonically inspected for internal cracking in accordance with the provisions of this paragraph at intervals not to exceed 600 landings.

B. Within the next 3,000 landings after the effective date of this amendment, accomplish the following:

1. Install an aft engine mount secondary support (2 per airplane), in accordance with Boeing Service Bulletin 737-71-1069, Revision 1, dated May 19, 1988.

2. Install an aft engine mount cone bolt failure indicator, externally, on each engine nacelle, in accordance with Boeing Service Bulletin 737-71-1069, Revision 1, dated May 19, 1988.

3. Following the accomplishment of paragraph B.2., above, inspect the aft mount cone bolt indicator at intervals thereafter not to exceed 3 calendar days (72 hours) on in-service airplanes. Improper alignment indicates a broken aft cone bolt. Broken cone bolts must be replaced with airworthy parts prior to further flight.

Accomplishment of the requirements of this paragraph constitutes terminating action for the inspection required by paragraph A., above.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to

operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Seattle, Washington, on May 20, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-12068 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-11-AD]

Airworthiness Directives; MORAVAN Model ZLIN 526L Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to MORAVAN Model ZLIN 526L airplanes, which would require repetitive inspections of certain fuselage welds for cracks. There have been reports of cracks being found near the leveling points in this tubular structure. The proposed AD would assure early detection of these cracks thus precluding a structural failure and possible loss of the airplane.

DATES: Comments must be received on or before July 15, 1988.

ADDRESSES: Mandatory Service Bulletin (MSB) Z526/62, dated July 30, 1987, applicable to this AD may be obtained from MORAVAN National Corp., 765-81 Otrokovice, Czechoslovakia. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88-CE-11-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. M. Dearing, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. H. Belderok, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as

they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88-CE-11-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

There have been at least two reports of cracks being found in certain tubular portions of the airframe at the leveling points located at the forward end of the cockpit area on MORAVAN Model ZLIN 526L airplanes. These cracks are believed to be caused by loads during aerobatic maneuvers. Cracks in the fuselage tubular structure may cause failure of this structure and possible catastrophic loss of the airplane. As a result, MORAVAN National Corp. has issued MSB Z526/62 dated July 30, 1987, which requires repetitive visual inspections for cracks using a 3-power magnifying glass of the tubular structure around the airplane's leveling points at the forward end of the cockpit area. If a crack is found, before further flight a repair scheme must be obtained from MORAVAN. The State Aviation Inspection (SIA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Czechoslovakia, has classified this Service Bulletin (S/B) and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under SAI registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of Czechoslovakia combined with FAA review of pertinent

documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity or products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of the SAI and the mandatory classification of this MSB Z526/62, dated July 30, 1987, by the SAI. Based on the foregoing, the FAA believes that the condition addressed by MSB Z526/62 dated July 30, 1987, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the FAA proposes as AD applicable to MORAVAN Model ZLIN 526L airplanes which would require repetitive visual inspections in accordance with MORAVAN MSB Z526L, dated July 30, 1987, every 100 hours time-in-service of the tubular structure around the airplane leveling points at the forward end of the cockpit area. If cracks are found, repair instructions must be obtained from MORAVAN and approved by the Manager, Aircraft Certification Staff, AEU-100.

The FAA has determined there are currently no airplanes of U.S. Registry affected by the proposed AD. The cost of inspecting the tubular structure in the vicinity of the leveling points at the forward end of the cockpit area required by the proposed AD is estimated to be \$320 (8 hours at \$40 per hour) per airplane. The total cost is estimated to be nil to the private sector. The regulations set forth in this notice would be promulgated pursuant to authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt State law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the

location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend §39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§39.13 [Amended]

2. By adding the following new AD:

MORAVAN: Applies to Model ZLIN 526L (all serial numbers) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD and every 100 hours TIS thereafter, unless already accomplished.

To preclude structural airframe failure, accomplish the following:

(a) Visually inspect, using a 3-power magnifying glass, the forward portion of the cabin area tubular structure around the airplane leveling points, for cracks using supplementary lighting as required in accordance with MORAVAN Mandatory Service Bulletin Z526L, dated July 30, 1987. If a crack is found, before further flight repair the crack in accordance with instructions for MORAVAN approved by the Manager, Aircraft Certification Staff, AEU-100.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; MORAVAN National Corp., 765-81 Otrokovice, Czechoslovakia, or may examine these documents at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 16, 1988.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88-12068 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-ANE-45]

Airworthiness Directives; Rolls-Royce plc (R-R) (Formerly Rolls-Royce Limited) Dart Mk. 506, 510, 511, 514, 525, 526, 527, 528, 529, 531, 532, and 542 Series Turboprop Engines and All Variants

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD) which imposed reduced life limits on certain high pressure (HP) and low pressure (LP) impellers on certain R-R Dart turboprop engines. The proposed AD would supersede AD 73-21-04, Amendment 39-1734 (38 FR 27819), by reducing life limits on certain HP impellers, and restating for clarity existing AD requirements with respect to HP and LP impeller life limits. The proposed AD is needed to prevent low cycle fatigue (LCF) failure of certain HP impellers by imposing a reduced life limit on affected HP impellers.

DATE: Comments must be received on or before June 30, 1988.

ADDRESSES: Comments on the proposal may be mailed in duplicate to:

Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket Number 86-ANE-45, 12 New England Executive Park Burlington, Massachusetts 01803.

or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: "Docket Number 86-ANE-45".

Comments may be inspected at the New England Region, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Marc J. Bouthillier, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7085.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket

number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 86-ANE-45". The postcard will be date/time stamped and returned to the commenter.

The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

This notice proposes to supersede Amendment 39-1734 (38 FR 27819), AD 73-21-04, which specifies life limits for HP and LP impellers. Since issuing Amendment 39-1734, the FAA has determined that an HP impeller failure resulted from LCF cracking. A stress analysis and a review of service experience has confirmed the need to reduce the life limit on certain HP impellers. The FAA has also determined

the need to restate for clarity existing HP and LP impeller life limits which remain unchanged. Therefore, the FAA proposes to supersede Amendment 39-1734 by imposing reduced life limits for certain HP impellers, and restating existing HP and LP impeller life limits for clarity.

Conclusion

The FAA has determined that the proposed regulation involves 784 engines, with approximately 100 engines affected by the new reduced HP impeller life limits. The approximate cost for those 100 engines is \$8,400 per engine. The remaining 684 engines are covered by already existing AD requirements, and therefore no additional costs are incurred. Therefore, I certify that this section: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39 [AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

LIFE LIMIT IN NUMBER OF FLIGHTS

Dart Mk.	Pre-mod 797	Mod 797 open bore processed	Mod 797 pre-mod 1455	Mod 1455	Mod 1475
525 thru 529.....					
531 and 532.....	4,500	11,000	14,000	¹ NC	¹ NC
542.....	4,500	11,000	14,000	¹ NC	¹ NC
	² NA	² NA	12,000	³ 16,000	14,500

¹ NC—Life limits not covered by this AD. Information relating to these impellers is contained in the manufacturer's appropriate overhaul manual.

² NA—Model not applicable to specific impeller.

³ Since incorp. of mod 1455.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD) which supersedes AD 73-21-04, Amendment 39-1734 (38 FR 27819) as follows:

Rolls-Royce plc: Applies to Rolls-Royce plc (R-R) (Formerly Rolls-Royce Limited) Dart Mks. 506, 510, 511, 514, 525, 526, 527, 528, 529, 531, 532, and 542 series turboprop engines and all variants.

Compliance is required as indicated, unless already accomplished.

To prevent fatigue failure of high pressure (HP) impellers and low pressure (LP) impellers, accomplish the following:

(a) Remove from service HP impellers installed in Dart Mks. 506, 510, 511, 514, and all variants, in accordance with the following schedule:

(1) HP impellers to Mod 844 standard which have accumulated 8,000 or more total flights since new on the effective date of this AD, within the next 400 flights from the effective date of this AD, or within the next 12 calendar months from the effective date of this AD, whichever comes later.

(2) HP impellers to Mod 1455 standard which have accumulated 8,600 or more total flights since new on the effective date of this AD, within the next 400 flights from the effective date of this AD, or within the next 12 calendar months from the effective date of this AD, whichever comes later.

(3) HP impellers to Mod 844 standard which have accumulated less than 8,000 total flights since new on the effective date of this AD, at or prior to accumulating 8,400 total flights since new.

(4) HP impellers to Mod 1455 standard which have accumulated less than 8,600 total flights since new on the effective date of this AD, at or prior to accumulating 9,000 total flights since new.

Notes: Total flights since new is defined as the total number of flights accumulated by the part since first installation in an engine. This total includes all Mod standards the part has operated under. Reference R-R Service Bulletin (SB) DA72-496, June 1986.

(2) This action establishes a new manual life limit for HP impellers as noted in (a) above.

(b) To prevent fatigue failure of HP impellers, remove from service HP impellers installed in Dart Mks. 525, 526, 527, 528, 529, 531, 532, 542, and all variants, on or before the life limits in the following schedule:

Note: The above noted HP impeller life limits were published in AD 73-21-04, Amendment 39-1734 (38 FR 27819), and have not changed. This section is only intended to reprint for clarity, already existing AD requirements with respect to current R-R SB information.

(c) To prevent fatigue failure of LP impellers, remove from service LP impellers installed in Dart Mk. 506, 510, 511, 514, 525, 526, 527, 528, 529, 531, 532, 542, and all variants, on or before the life limits in the following schedule:

LIFE LIMIT IN NUMBER OF FLIGHTS

Dart Mk.	Mod 797 open bore processed	Mod 797 pre-mod 1455	Mod 1455
506.....	10,500	11,250	11,250
510.....	10,500	11,250	11,250
511.....	10,500	11,250	11,250
514.....	10,500	11,250	11,250
525 thru 529.....	9,000	9,000	9,000
531 thru 532.....	9,000	9,000	9,000
542.....	¹ NO	9,000	9,000

¹ NA—Model not applicable to specific impeller.

Notes: (1) LP impellers to Mod 1455 Part 1 standard (manufactured by R-R to this standard) are not affected by this AD. Life limits for this part are quoted in the overhaul manual, Chapter 5, "Time Limits".

(2) The above noted LP impeller life limits were published in AD 73-21-04, Amendment 39-1734 (38 FR 27819), and have not changed. This AD, with respect to LP impeller life limits, is only intended to reprint for clarity, already existing AD requirements with respect to current R-R SB information.

(3) Rolls-Royce Dart Service Bulletin 72-463 also pertains to LP impeller life limits.

(d) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon submission of substantiating data by an owner or operator through an FAA airworthiness inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance schedules specified in this AD.

(f) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment supersedes Amendment 39-1734 (38 FR 27819), AD 73-21-04.

Issued in Burlington, Massachusetts, on May 19, 1988.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 88-12071 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-CE-13-AD]

Airworthiness Directives; Piper Models PA-23, PA-23-160, PA-23-250, PA-23-235, PA-E23-250 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to all Piper PA-23 Series airplanes, which would require periodic inspection and repair, as required, of the fuel vent/drain lines, the thermos type fuel cell caps, and the fuel filler compartment covers. Incidents of engine power loss and accidents due to water contamination of the fuel system, caused by defective fuel filler caps and blocked fuel cell vent/drain lines, have occurred on these airplanes. The prescribed action would reduce the possibility of water contamination in the fuel system and resultant engine stoppage due to these conditions.

DATE: Comments must be received on or before August 1, 1988.

ADDRESSES: Piper Aircraft Corporation Service Bulletin No. 340, dated May 24, 1971, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (305) 567-4366. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88-CE-13-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Goodall, Aerospace Engineer, Propulsion Branch, ACE-140A, Atlanta Aircraft Certification Office, FAA, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88-CE-13-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The National Transportation Safety Board (NTSB) has reported that since 1975, Piper Model PA-23 Apache airplanes have been involved in fourteen accidents and a Piper Model PA-23 Aztec airplane has been involved in one accident, all of which occurred after water in the fuel system led to engine stoppage. Apache airplanes have been in twenty-three other accidents and Aztec airplanes in seventeen other accidents all involving engine stoppage wherein the reason for engine stoppage was not determined but may have been caused by water in the fuel. At least twenty-two fatalities and four serious injuries resulted from these accidents. Investigation has revealed that due to the recessed design of the fuel filler compartments, blocked fuel cell vent/drain lines will allow water to collect in the fuel filler compartment and that defective fuel cap seals will allow water

to enter the fuel cell. Once water gets into the fuel cell, it is very difficult to remove it on the ground. On May 24, 1971, Piper Aircraft Corporation released Service Bulletin No. 340 entitled "Fuel Cell Vent/Drain Lines Inspection" which recommended periodic inspection procedures for the fuel cell caps and fuel filler compartment access covers. These periodic inspections were intended to reduce the possibility of precipitation and/or wash water from entering the fuel filler compartment and leaking into the fuel cell. However, in light of the number of accidents involving water in the fuel system, the FAA has determined that in many instances these inspections are not being performed and consequently, should be made mandatory. Accordingly, an AD is being proposed, applicable to all Piper PA-23 series airplanes, which would require compliance with the periodic inspections specified in Piper Service Bulletin No. 340 regardless of whether or not they have anti-icing fuel cell vents installed. Due to the nature of the problem, the FAA has determined that this inspection should be based on calendar time instead of operating hours as described in Piper Service Bulletin No. 340.

Since the condition described is likely to exist or develop in other Piper Model PA-23 airplanes of the same design, the proposed AD would require inspection of the fuel vent/drain lines to ensure they are not obstructed or deteriorated, and inspection of the thermos type fuel cell caps and fuel filler compartment access covers for sealing integrity.

The FAA has determined there are approximately 7,000 airplanes affected by the proposed AD. The cost of implementing the proposed AD is estimated to be \$50 per airplane per inspection. The total cost is estimated to be \$3,150,000 to the private sector over the anticipated life of the airplane fleet. The cost of complying with the proposal would not have a significant financial impact on any small entities owning affected airplanes.

The regulations set forth in this notice would be promulgated pursuant to authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt State law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2)

is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Piper: Applies to all Model PA-23, PA-23-160, PA-23-250, PA-E23-250 and PA-23-235 (all serial numbers) airplanes certificated in any category.

Compliance: Required within the next 60 days after the effective date of this AD and at intervals not to exceed 12 calendar months thereafter unless already accomplished.

To reduce the possibility of precipitation and/or wash water from entering the fuel filler compartment and leaking into the fuel cell resulting in engine failure, accomplish the following:

(a) Inspect the fuel vent/drain lines, the thermos type fuel cell caps, and the fuel filler compartment covers on both main fuel cell systems and, if installed, both auxiliary fuel cell systems in accordance with the instructions in Piper Service Bulletin No. 340, dated May 24, 1971.

(b) If any defects are found, correct them before further flight.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA,

Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 17, 1988.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88-12069 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-3387-5]

Technical Assistance Grant Program Administrative Services Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of rulemaking; reopening of comment period.

SUMMARY: The Environmental Protection Agency (EPA) published in the March 24, 1988 Federal Register (53 FR 9736) an Interim Final Rule (IFR) for the Superfund Technical Assistance Grant Program. EPA also published in the same Federal Register (53 FR 9753) an advance Notice of Rulemaking (ANRM) soliciting comments regarding a proposal to provide technical assistance grant applicants and recipients with the services of an Administrative Services Contractor (ASC). These services could include both assistance in preparing grant applications and the procurement of technical assistance, and contract management. To implement the ASC, EPA would acquire contractors on a State, Regional, or National basis to provide services to grant recipients in lieu of cash. The ASC concept is based on EPA's desire to make the Technical Assistance Grant Program easier for groups to use and for EPA to administer. EPA today announces that the comment period on that ANRM is being reopened until June 22, 1988.

DATES: Written comments must be received on or before June 22, 1988.

ADDRESSES: *Comments:* Written comments must be submitted to: Superfund Docket Clerk, Office of Emergency and Remedial Response (WH-548D), Room LG-100, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments on the ANRM must identify the document as follows: "Docket CERCLA 117(e), Technical Assistance Grant Program Administrative Services Contractor." Copies of materials relevant to the ANRM are contained in the Superfund docket located in the

Lower Garage (Room LG-100) at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is available for inspection between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday, excluding Federal holidays, by appointment only. The docket phone number in Washington, DC is (202) 382-3046. As provided in 40 CFR Part 2, a responsible fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT:

Daphne D. Gemmill, Office of Emergency and Remedial Response, WH-548E, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 at (202) 382-2460 or the RCRA/Superfund Hotline from 9:00 a.m. to 4:30 p.m., Monday-Friday, toll free at 1-(800) 424-9346 or in Washington, DC at 382-3000.

Dated: May 20, 1988.

J.W. McGraw,

Acting Assistant Administrator, Solid Waste and Emergency Response.

[FR Doc. 88-12101 Filed 5-27-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3387-9]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to disapprove a submission by the State of Wisconsin as a revision to the Wisconsin State Implementation Plan (SIP) for ozone. This submission would constitute a permanent relaxation from Wisconsin's reasonably available control technology (RACT) requirements for volatile organic compound (VOC) emissions from a miscellaneous metal parts and products dip coating line at the Gehl Company (Gehl). This facility is located in West Bend, Washington County, Wisconsin.

USEPA today is proposing to disapprove this SIP revision primarily because the State has not demonstrated that the revision will not jeopardize attainment or maintenance of the ozone standard in Washington County and in nonattainment areas in southeastern Wisconsin.

DATE: Comments on this revision and on the proposed USEPA action must be received by June 30, 1988.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you

telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604;

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Uylaine E. McMahan, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1986, the Wisconsin Department of Natural Resources (WDNR) submitted as a proposed revision to the State's ozone SIP a site-specific RACT determination for a miscellaneous metal parts and products dip coating line. This line is located at the Gehl facility in Washington County, Wisconsin.

Under the existing federally approved SIP for Wisconsin, the metal parts and products dip coating line is subject to the control requirements contained in Natural Resources (NR) section 154.13(4)(m)3, Wisconsin Administrative Code, which limits the VOC content of the coatings used to not more than 4.8 pounds per gallon of coatings excluding water, by December 31, 1982, and 3.5 pounds per gallon of coating, excluding water, by December 31, 1985. USEPA approved these rules on January 11, 1980 (45 FR 2319) and June 21, 1982 (47 FR 26622).

WDNR reported that Gehl's spray booths are meeting the 3.5 pounds of VOC per gallon of coating, excluding water, limit. An air dried coating is applied in the dip tank which presently meets the interim limitation of 4.8 pounds of VOC per gallon of coating, excluding water, limitation, but does not meet the final limitation of 3.5 pounds of VOC per gallon of coating. Gehl has maintained that it is not technically and economically feasible to meet the final limitation for the dip tank. It has requested an alternative limitation for the dip tank coating of 4.8 pounds of

VOC per gallon of coating, excluding water.

WDNR's submittal discusses the technical and economic feasibility of six types of complying coatings, the economic feasibility of add-on control, and the effect of the relaxation on attainment and maintenance of the ozone NASQS. WDNR's analysis is in turn discussed in USEPA's technical support document dated March 10, 1987.

Washington County, Wisconsin, is designated attainment for ozone under section 107 of the Clean Air Act, 42 U.S.C. 7407. See 40 CFR 81.350. However, recent air quality data for this county show exceedances of the ozone standard. Further, Wisconsin took credit for the RACT-level VOC emission limitations that it now seeks to relax in its demonstration of attainment for the SIP for designated ozone nonattainment areas in southeastern Wisconsin that the state submitted to satisfy Part D of the Act, 42 U.S.C. 7501 *et seq.* USEPA relied on that demonstration in approving the State's Part D plan for those areas.

Evaluation

NAAQS Attainment

Section 110(a)(2)(B) of the Clean Air Act, 42 U.S.C. 7410(a)(2)(B), requires that SIPs for an air pollutant include control measures as are necessary to ensure timely attainment and maintenance of the NAAQS for that pollutant. Section 110(a)(3)(A), 42 U.S.C. 7410(a)(3)(A), applies the same requirement to plan revisions. USEPA's regulations implementing section 110 assign to the States the burden of demonstrating that their plans satisfy this requirement (40 CFR 51.13(e), 51.14(c)). See also CAA 110(a)(2)(I), 172, 42 U.S.C. 7410(a)(2)(I), 7502 (requiring SIPs that assure timely attainment and maintenance in designated nonattainment areas). Thus, in order to obtain approval of the VOC SIP relaxation for the Gehl Company at issue here, the State must show that the SIP for Washington County will continue, despite the relaxation, to assure timely attainment and maintenance in the county.

Moreover, because Wisconsin takes credit for VOC reductions in Washington County in the attainment demonstration for nonattainment areas in southeastern Wisconsin, the State must also show that the SIP for those nonattainment areas will still assure timely attainment and maintenance in the areas despite the relaxation. Thus, the relaxation comes within the spirit of a policy memorandum dated July 29, 1983, from Sheldon Meyers former

Director of USEPA's Office of Air Quality Planning and Standards. This memorandum states:

For a State to secure USEPA approval of a relaxation [in a nonattainment area] and continue overall approval status [of its SIP], however, the State would need to show that the SIP as a whole, despite the relaxation, would continue to "provide for" attainment by the end of 1982 in the case of nonextension areas or as expeditiously as practicable, but no later than 1987 in extension areas. For VOC, this generally will require a data base and modeling demonstration consistent with that applied in extension areas.

Here, the State has failed to provide an adequate demonstration that the SIP together with the relaxation would assure timely attainment and maintenance in either Washington County or the nonattainment areas. The reasons for this conclusion appear in the March 10, 1987, technical support document.

Miscellaneous

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before June 30, 1988 will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office address provided at the front of this notice.

Under 5 U.S.C. section 605(b), I certify that this SIP disapproval will not have a significant economic impact on a substantial number of small entities, because the effect of this disapproval is to leave in effect existing emission limitations. Therefore, the disapproval will not result in any change or impact on any source or community. Additionally, it applies to only one major corporation, Gehl.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbon, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401-7642.

Dated: June 24, 1987.

Editorial Note: This document was received at the Office of the Federal Register May 25, 1988.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 88-12103 Filed 5-27-88; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 13)]

Rail Abandonments; Use of Rights-of-Way as Trails; Supplemental Trails Act Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission grants a petition to reopen this rulemaking proceeding, filed by the National Association of Reversionary Property Owners (NARPO), to consider whether the rules implementing section 1247(d) of the National Trails System Act (16 U.S.C. 1247(d)) (*Trails Act*), adopted in *Rail Abandonments—Use of Rights-of-Way as Trails*, 2 I.C.C.2d 591 (1986) and *Rail Abandonments—Supplemental Trails Act Procedures*, 4 I.C.C.2d 152 (1987), codified at 49 CFR 1152.29, should be amended to require: (1) Railroads and trail groups to report to the Commission on the outcome of negotiations to transfer railroad rights-of-way for interim trail use and rail banking purposes under section 1247(d); and (2) additional reporting if an interim trail use agreement is reached.

DATE: Comments are due on June 30, 1988.

ADDRESS: Send an original and 10 copies of comments to: Ex Parte No. 274 (Sub-No. 13), Office of the Secretary, Case Control Branch, Room 1324, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

(TDD for hearing impaired (202) 275-1721)

SUPPLEMENTARY INFORMATION: When the Commission issues a Certificate (or Notice) of Interim Trail Use or Abandonment pursuant to section 1247(d), the subject right-of-way may be converted to trail use, abandoned, or retained in service. If the abandonment occurs, reversionary interests in the right-of-way generally vest by operation of law. If the line is continued in rail service or converted to trail use under section 1247(d), then the *status quo* is preserved: Reversionary interests do not mature or vest but remain future interests.

The purpose of NARPO's proposal would be to create a Commission record of who holds the present interest in rights-of-way that are the subject of interim trail use and rail banking certificates and notices under section

1247(d) so that persons owning property adjacent to and/or persons holding reversionary interests in such rights-of-way can contact the Commission to find out who is responsible for such rights-of-way in order to protect their property interests.

NARPO states that under section 1247(d), trail use groups are to pay the property taxes on and maintain rights-of-way, but that our rules address neither the quality of maintenance nor how the Commission can know whether the property taxes are paid. According to NARPO, if a right-of-way is poorly maintained, an environmental, esthetic and safety hazard may exist which an adjacent property owner cannot control or remedy. If property taxes on the right-of-way go unpaid, the right-of-way could have a lien placed on it or be sold without the adjacent property owner's knowledge.

NARPO asks the Commission to require timely reporting of trail groups' interests in rights-of-way and require trail groups to identify themselves to persons holding reversionary interests in rights-of-way. NARPO argues that reversionary interest holders cannot adequately protect their property interests without knowing who is using the right-of-way, and that it is the Commission's responsibility to have that information. If the Commission maintained a list of the responsible parties on these rights-of-way, the reversionary interest holders would be able to contact the Commission for that information and protect their interests.

We request comments on the merits of NARPO's reporting proposal and invite parties to propose draft rules or otherwise suggest ways to implement the proposal under the existing regulatory scheme. We also invite comments on whether our rules should address the quality of maintenance on rights-of-way subject to the Trails Act and, if so, what the standards should be and how to incorporate them into the existing regulatory scheme. NARPO also suggests that trail groups be required to notify reversionary interest holders of who they are and where they can be contacted. We request comments on the merits of this proposal and suggestions on implementation.

NARPO asserts that if a trail group dissolves, the ICC would not know of it. However, rules 1152.29(c)(2) and (d)(2) provide that if the trail user intends to terminate trail use, it must send the Commission a copy of the trail use authority (*i.e.*, the Certificate (or Notice) of Interim Trail Use or Abandonment (CITU or NITU, respectively)) and request that it be vacated on a certain

date. The agency then would reopen the underlying abandonment proceeding, vacate the CITU or NITU and issue an effective abandonment certificate or notice and send a copy to the trail use group, the abandoning railroad, and the owner of the right-of-way. We believe that the existing rules adequately address the situation NARPO describes. Nevertheless, we invite comments on this issue as well.¹

¹ Reference to the "owner of the right-of-way" in rules 1152.29(c)(2) and (d)(2) refers to the person who possesses the present interest in rights-of-way subject to trail use. That person could be the railroad, the trail group, or some third party who is funding the trail use venture. The term does not include persons holding reversionary interests in such rights-of-way.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or call 202-275/7428. Assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

Implementing any of these proposals would have no impact on the human environment or energy conservation because it would involve only reporting requirements.

It is certified that these proposals, if adopted, would have no significant impact on small businesses because

only minor reporting requirements would be involved.

List of Subjects in 49 CFR Part 1152

Administrative practice and procedure, Environmental protection, National Trails System, National Resources, Railroads, Recreation, Recreation areas.

Authority: 5 U.S.C. 553, 559 and 704; 11 U.S.C. 1170; 16 U.S.C. 1247(d); and 49 U.S.C. 10321, 10362, 10505 and 10903 *et seq.*

Decided: May 23, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88-12080 Filed 5-27-88; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 53, No. 104

Tuesday, May 31, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-88-102]

National Advisory Committee for Tobacco Inspection Services; Correction To Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting; correction.

SUMMARY: This notice changes the address previously published in the Federal Register April 29, 1988, (53 FR 15434), for a public meeting to be held in Lexington, Kentucky, on June 10, 1988, for the National Advisory Committee for Tobacco Inspection Services. The address for the Committee meeting is: Marriott Hotel, Grand Ballroom, 1800 New Town Pike, Lexington, Kentucky 40511.

The date and time for the meeting remain unchanged: June 10, 1988, 1:30 p.m.

Dated: May 26, 1988.

J. Patrick Boyle,
Administrator.

[FR Doc. 88-12188 Filed 5-27-88; 8:45 am]

BILLING CODE 3410-02-M

COMMISSION ON CIVIL RIGHTS

Maine Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:30 p.m. on June 13, 1988, at the Best Western Senator Inn, the State Room, 284 Western Ave., Augusta, ME 04330. The purpose of the meeting is (1) discuss the proceedings of the 12/2/87 community forum on "Civil Rights Issues

in Maine," and (2) plan future SAC activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Vice Chairperson Shirley Ezzy (207-622-4882) on John I. Binkley, Director of the Eastern Regional Division at (202-523-5264) (TDD 202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 20, 1988.

Susan J. Prado,
Acting Staff Director.

[FR Doc. 88-12056 Filed 5-27-88; 8:45 am]

BILLING CODE 6335-01-M

South Dakota Advisory Committee; Amendment to Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the South Dakota Advisory Committee to the Commission originally scheduled for May 20, 1988, in Sioux Falls, South Dakota, has been rescheduled. The meeting will be held on June 24, 1988. The purpose, time, and location of the meeting remain the same as previously published in 53 FR 14830 (April 26, 1988).

Dated in Washington, DC, May 23, 1988.

Susan J. Prado,
Acting Staff Director.

[FR Doc. 88-12057 Filed 5-27-88; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Application #88-00002]

Export Trade Certificate Review; Olde South Traders, Inc.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Olde South Traders, Inc. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT:

John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Processed and semi-processed forest products ("forest products"), including but not limited to lumber, treated wood products, wood chips, shavings, and veneer.

Export Trade Facilitation Services (as They Relate to the Export of Products)

Marketing, selling, brokering, shipping, handling, common marking and identification, consulting, international market research, advertising and sales promotion, insurance, product research and design, legal assistance, trade documentation, communication and processing of foreign orders, warehousing, foreign exchange, financing and taking title to goods.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Members (in Addition to Applicant)

Daniels Lumber, Inc., Lake City, Florida; Metcalf Lumber Company, Inc., Thomasville, Georgia; T.R. Miller Mill Company, Inc., Brewton, Alabama; Nekoosa Packaging Corporation, Lake Butler, Florida; Rex Lumber Company, Bristol, Florida; and Varn Wood Products Company, Hoboken, Georgia.

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, Olde South is certified to:

1. Enter into exclusive agreements with its Members to act as their Export Intermediary for forest products by providing Export Trade Facilitation Services.

2. Meet with its Members to negotiate and agree on the terms of their participation in each bid, invitation or request to bid, or other sales opportunity in any Export Market, including, but not limited to, the price at which a Member will sell its forest products and related services for export, and the quantity of products each Member will commit to the foreign sale or bid opportunity. During the course of such meetings, the following information may be exchanged.

a. Information that is already generally available to the trade or public.

b. Information that is specific to a particular Export Market, including but not limited to, reports and forecasts of sales, prices, terms, customer needs, selling strategies and product specifications by geographical area, and by individual customers within the Export Market.

c. Information on expenses specific to exporting to a particular Export Market (such as ocean freight, inland freight to the terminal or port, terminal or port storage, wharfage and handling charges, insurance, agents' commissions, export sales documentation and service, and export sales financing).

d. Information on U.S. and foreign legislation and regulations affecting sales to a particular Export Market.

e. Information on Olde South's activities in the Export Markets, including, but not limited to, customer complaints and quality problems, visits by customers located in the Export Markets, and reports by foreign sales representatives.

f. Information on supply and demand for forest products in export trade, including, but not limited to, the quantities of particular products desired by export customers, the supply of such products (based on domestic supply and demand) available for export trade, anticipated export prices, quality standards, packaging standards, and primary production schedules.

g. Information on specific prices and quantities involved in specific domestic transactions furnished by each Member individually, and on a confidential basis, to Olde South's manager who will use such information to compute averages and trends regarding domestic prices and quantities for disclosure to the Members in aggregated form. The manager shall not disclose to any Member the specific information furnished by any other Member. The manager shall be an independent employee of the Olde South and not otherwise affiliated with any of the Members.

3. Enter into exclusive agreements with other Export Intermediaries for the sale of forest products in the Export Markets, whereby:

a. The Export Intermediary agrees not to represent competitors of Olde South in the sale of forest products and related services in any Export Market.

b. The Export Intermediary agrees not to buy forest products and related services from Olde South's competitors.

4. Enter into exclusive agreements with foreign customers of forest products and related services offered by Olde South whereby the customer agrees not to purchase forest products and related services from Olde South's competitors.

5. Discuss and agree on with its Members the export prices to be charged by Olde South or its Members for the sale of forest products or related services directed to an Export Market or to a domestic or foreign exporter for ultimate sale in an Export Market.

6. Limit membership in Olde South.

7. Publish and distribute a list of export prices to be charged by Olde South or its Members.

8. Allocate orders for export sales, and divide profits from such sales, among its Members as provided in the membership agreement between Olde South and its Members.

9. Purchase forest products from its Members and non-members for direct export to an Export Market or for sale to a domestic or foreign exporter for ultimate sale in an Export Market.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility,

Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: May 24, 1988.

John E. Stiner,
Director, Office of Export Trading Company Affairs.

[FR Doc. 88-12119 Filed 5-27-88; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Listing Endangered and Threatened Species and Designating Critical Habitat; Petition to Adopt a Special Rule

AGENCY: National Marine Fisheries Service (NMFS), NOAA; Commerce.

ACTION: Notice of receipt of petition.

SUMMARY: NMFS has received a petition to issue an emergency rule which would prohibit commercial whale watching on Atlantic right whales (*Eubalaena glacialis*).

FOR FURTHER INFORMATION CONTACT:

Robert C. Ziobro, Protected Species Management Division, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235 (202/673-5348).

SUPPLEMENTARY INFORMATION: On April 19, 1988, NMFS received a petition from GreenWorld to adopt an emergency rule which would prohibit commercial whale watching on Atlantic right whales. The Service is reviewing the petition and will make a determination in accordance with the provisions of the Endangered Species Act of 1973 and the Administrative Procedure Act (5 U.S.C. 553(e)).

Dated: May 24, 1988.

James E. Douglas, Jr.,
Deputy Assistant Administrator for Fisheries.

[FR Doc. 88-12060 Filed 5-27-88; 8:45 am]

BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY COMMISSION

Development of Voluntary Standard for All-Terrain Vehicles; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The major members of the all-terrain vehicle ("ATV") industry have scheduled a meeting on June 2, 1988, for further development of a voluntary safety standard for ATVs.

Interested members of the public are invited to attend the meeting and observe or participate in the development of the standard. Persons wishing to attend the meeting or to be notified of future meetings of the committee should notify Paul Golde at the Specialty Vehicle Institute of America, 3151 Airway Avenue, Building K-107, Costa Mesa, California 92626, phone (714) 241-9256.

DATE: The meeting is scheduled for 9:30 a.m. on June 2, 1988.

ADDRESS: The meeting will be held at The D.C. Dulles Marriott Hotel, 333 West Service Road, Chantilly, Virginia.

FOR FURTHER INFORMATION CONTACT: Carl Blechschmidt, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207, phone (301) 492-6554.

SUPPLEMENTARY INFORMATION:

Background

The Commission for some time has been concerned with safety issues associated with the operation of all-terrain vehicles, which are three- and four-wheeled motorized vehicles, generally characterized by large, low pressure tires, a seat designed to be straddled by the operator, and handlebars for steering and which are intended for off-road use by an individual rider on various types of unupaved terrain.

On May 31, 1985, the Commission published an advance notice of proposed rulemaking (ANPR) in the *Federal Register*, 50 FR 23139. In the ANPR, the Commission announced that it was considering a wide range of possible regulatory alternatives to address the safety concerns about ATVs and solicited comments on a number of issues.

On December 30, 1987, the Commission and the major members of the ATV industry filed preliminary consent decrees in *United States v. American Honda Motor Co., Inc. et al.*, Civil Action No. 87-3525, in the United States District Court for the District of Columbia. The preliminary consent decrees contained provisions intended to satisfy the Commission's concerns about ATVs and provided that the parties would file proposed final consent decrees, which were filed on March 14, 1988. Both the preliminary consent decrees and the final consent decrees, which were approved by the Court on April 28, 1988, provide that the industry members will attempt in good faith to reach agreement on voluntary standards satisfactory to the Commission, within four months of the

Court's approval of the final consent decrees.

The first standard development meeting pursuant to the consent decree was held on May 4, 1988, and technical working group meetings were held on May 19-20. The results of the working group meetings will be reported to the June 2 plenary meeting of the industry representatives, who will make the decisions on the content of proposals for inclusion in the standard.

Commission policy requires that all voluntary standards meetings attended by CPSC staff be open to the public and that interested members of the public have an opportunity to contribute to the development of the standard. Thus, the meeting is open to all members of the public who wish to attend or participate. In order to ensure that the meeting facilities are adequate to accommodate all attendees, persons wishing to attend the meeting should notify Paul Golde at the Specialty Vehicle Institute of America, 3151 Airway Avenue, Building K-107, Costa Mesa, California 92626, phone (714) 241-9256. In addition, persons who wish to participate in the development of the standard should notify Mr. Golde of that fact, so they can receive notice of additional meetings, etc., as they are scheduled.

The goal of the four-month period provided in the consent decrees for the development of a standard by the industry is to develop at least a general consensus on a standard within that time. Work on some aspects of a standard may continue after that period. Because of the need for the industry to develop the standard within four months, it may not be practical to announce all subsequent meetings of the voluntary standard development committee in the *Federal Register*. However, all persons who indicate a desire to participate in the development of the standard will be notified of such meetings, and other parties may contact the Commission's Office of the Secretary, at (301) 492-6800, to determine when standards development meetings are placed on the Commission's Public Calendar.

The Commission expects that most of the subsequent plenary meetings will be in Washington, DC, metropolitan area. However, some meetings may be in California for the convenience of participants who are located on the west coast or in Japan.

In order to ensure that the meeting proceeds on schedule, it may be necessary for the Chairperson to limit the time and manner allowed for the presentation of comments by each participant and to restrict duplicative comments.

Dated: May 24, 1988.

Sadye E. Dunn,

Secretary of the Commission.

[FR Doc. 88-12090 Filed 5-25-88; 3:09 pm]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Information School Board of Visitors; Renewal

ACTION: Renewal of the Department of Defense Information Schools Board of Visitors.

SUMMARY: Under the provisions of Pub. L. 92-463, "Federal Advisory Committee Act," notice is hereby given that the Defense Information School Board of Visitors has been determined to be in the public interest and has been renewed.

The Defense Information School Board of Visitors provides an external source of expertise on public affairs training to the Assistant Secretary of Defense (Public Affairs) and other Defense Department officials. The Board acts as an important bridge with civilian professional communities and ensures continued reflection on the objectives, operations and policies of the Defense Information School. The scope of the Board's concerns include: course content and quality of instruction in journalism, photojournalism, broadcasting, public affairs and mass communication, as well as institutional growth, student services, faculty development, research, and related educational considerations.

May 25, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88-12086 Filed 5-27-88; 8:45 am]

BILLING CODE 3810-01-M

Special Operations Policy Advisory Group; Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet on 2 June 1988 in the Pentagon, Arlington, Virginia to discuss sensitive, classified topics.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effective Special Operations Forces.

In accordance with section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and section 552b(c)(1)

of Title 5, United States Code, this meeting will be closed to the public.

May 24, 1988.

Linda M. Bynum,
Alternate OSD Federal Register Liaison,
Department of Defense.

[FR Doc. 88-12085 Filed 5-27-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (AS).

Dates of Meeting: 22-23 June 1988.

Time: 0900-1700 hours each day.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board 1988 Summer Study on Technology Insertion in Army Systems will meet for briefings by AMC and TRADOC agencies. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-12058 Filed 5-27-88; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 20-21 June 1988.

Time: 0800-1700 hours, daily.

Place: US Army Missile Command, Redstone Arsenal, Huntsville, Alabama.

Agenda: The Army Science Board 1988 Summer Study on Army Testing will meet for the purpose of conducting a detailed review of all testing related to documentation for the AQUILA and MLRS Weapons Systems. These sessions will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so

inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-12089 Filed 5-27-88; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement, Navigation Study; Brunswick Harbor, Brunswick, GA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Engineer District, Savannah, Georgia, proposes to prepare a Draft Environmental Impact Statement to update previous studies for the Brunswick Harbor Navigation Project to determine whether modifications of the existing Federal project are needed and, if so, which modifications are most feasible.

FOR FURTHER INFORMATION CONTACT: U.S. Army Engineer District, Savannah, Attn. CESAS-PD-E/ Dr. Charles W. Belin, P.O. Box 889, Savannah, Georgia 31402-0889, Telephone: (912) 944-5838.

SUPPLEMENTARY INFORMATION:

1. Background

The U.S. Army Engineer District, Savannah, Georgia, maintains a Federal Navigation Channel for Brunswick Harbor, Brunswick, Georgia. The FY 1984 Continuing Resolution, Pub. L. 98-151, authorized the reevaluation and updating of previous studies for the Brunswick Harbor Navigation Project to determine if modifications to the existing Federal project are needed and which modifications are most feasible.

2. Proposed Action

The U.S. Army Engineer District, Savannah, Georgia, proposes to prepare a Draft Feasibility Report and Environmental Impact Statement to evaluate possible channel improvements to the Brunswick Harbor Navigation Project and determine what modifications should be recommended to Congress for implementation.

3. Alternatives

The improvements considered are incremental channel deepening from the present 30 feet to a possible 38-foot depth, adding additional maneuvering areas, and/or increasing the channel

width. The No Action Alternative will be evaluated.

4. Scoping Process

Scoping meetings were held on 4 and 5 September 1974, 3 December 1974, and 31 July 1975. The inputs provided by the various interest groups at these meetings and during the coordination of the draft reports were used in the development of preliminary plans and in the selection of a plan for recommendation. The scope of this study will follow the recommendations of the 1984 Brunswick Harbor Georgia Navigational Study Reconnaissance Report.

a. A Public Notice will be issued soliciting comments and concerns from the interested public and other agencies. In this notice the public will be advised how they can become involved in the scoping process. All interested and affected Federal, state and local agencies as well as private organizations and individuals are encouraged to provide information for this DEIS.

b. Significant Issues in the DEIS. The most significant issue to be analyzed will be the effect of a larger navigational channel and the best method for disposal of maintenance material.

c. The completed DEIS will be coordinated with the appropriate Federal, state and local agencies as well as private organizations and individuals for their input.

d. No further scoping meetings will be planned unless they are requested.

e. The Brunswick Harbor Draft Feasibility Report and Environmental Impact Statement are scheduled to be available for public review in November 1988.

E. Randolph Marshall,

Major, Corps of Engineers, Acting Commander.

[FR Doc. 88-12051 Filed 5-27-88; 8:45 am]

BILLING CODE 3710-HP-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Rossville, KS; Flood Protection Study

AGENCY: US Army Corps of Engineers, Kansas City District, DOD.

ACTION: Notice of intent.

SUMMARY: The purpose of this study is to evaluate an array of potential plans to determine the feasibility of providing flood protection to the town of Rossville, Kansas (KS), from flood flows arising on Cross Creek.

INFORMATION: Questions about the proposed study and the DEIS can be

answered by Mr. Robert R. Ruf, Chief, Environmental Resources Branch, Corps of Engineers, 700 Federal Building, Kansas City, Missouri 64106. Phone: 816-426-3672.

SUPPLEMENTARY INFORMATION: A Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the town of Rossville, KS, Flood Protection Study was published in the *Federal Register*, Volume 50, No. 60, Thursday, March 26, 1985. However, due to the town of Rossville rejecting the proposed project because of the financial responsibility required of the town as local sponsor of the recommended plan, a Notice to Cancel the Notice of Intent to prepare a Draft Environmental Impact Statement for the Rossville, KS project was requested on December 17, 1986. The town of Rossville has reconsidered its financial responsibility for the flood protection project and has requested that the Kansas City District continue its study of flood protection measures for Cross Creek.

1. The purpose of this study is to redetermine the feasibility of providing protection to the town of Rossville, KS, from flood flows arising on Cross Creek.

2. Reasonable alternatives for flood protection that will be studied include:

a. *No Action.* Without Federal involvement, flooding would continue to adversely impact residential units, businesses, churches, a school, and the town's water plant.

b. *Floodwall/Levee Construction.* This plan would consist of two ring levees and a floodwall. One ring levee would be small and encompass the northwest corner of Rossville. The larger ring levee would encircle the remainder of the town. The floodwall would begin where Cross Creek meets the northwest edge of town and end where Cross Creek leaves the southwest corner of town.

c. *Ring Levee Construction and Channel Relocation.* This plan would eliminate the segment of Cross Creek which flows through Rossville. The construction of a relocated channel would allow Cross Creek flood waters to by-pass the town of Rossville. In addition to the channel relocation, there would be a levee built around the entire town using material excavated from the new channel. This plan, and plans 2d-f, would include constructing a new highway and railroad bridge across the relocated channel of Cross Creek.

d. *Alternate Trail Levee and Channel Relocation.* This plan includes the same channel relocation described above; however, levee construction would extend from high ground north of town southwest to the upstream end of the

relocated channel. It would then parallel the new channel to where it meets the old channel and extend approximately three-quarters of a mile downstream from the new channel.

e. *Relocated Channel and Trail Levee.* This plan would also involve a relocated channel as in paragraphs 2c-d, however, the start of the new channel would be nearer the northwest edge of Rossville than for plans 2c-d. This plan would involve constructing a trail levee along the north edge of town from Cemetery Hill to the mouth of Ensign Ditch, then south along the new channel. The levee would then trail off south of town approximately three-quarters of a mile downstream from the lower end of the new channel. The levee along the north side of town would require relocating a road and several houses.

f. *Channel Relocation Only.* This plan would allow Cross Creek flood waters to bypass the town of Rossville as described in paragraph 2c and 2d, however, the plan would not include construction of levees. Disposal areas for the excavated material from the new channel could threaten wetland or riparian habitats.

3. Scoping Process:

a. *Public Involvement:* A letter from Rossville officials was received on September 8, 1987, in which the town requested that the section 205 Flood Protection Project for Rossville be restarted. A public meeting is not currently scheduled to be held before the Draft Feasibility Report and Draft Environmental Impact Statement are released to the public in July, 1988. A public meeting will be held in late July or early August, 1988 after review of the draft reports. Draft documents, resulting from the Rossville Flood Protection Study, will be distributed to Federal, State, and local agencies, as well as interested members of the public, for review and comment. Since the participation of the public and Governmental agencies has occurred during all stages of the planning process, no formal "scoping" meeting will be held.

b. Environmental consultation and review will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and other applicable laws, regulations, and guidelines.

Date: May 16, 1988.

Philip L. Rotert,

Chief, Planning Division.

[FR Doc. 88-12052 Filed 5-27-88; 8:45 am]

BILLING CODE 3710-KN-M

DEPARTMENT OF EDUCATION

Carl D. Perkins Vocational Education Act; Request for Public Comments on Reauthorization

AGENCY: Department of Education.

ACTION: Notice of request for public comments on reauthorization of the Carl D. Perkins Vocational Education Act.

SUMMARY: The Secretary of Education has initiated development of a proposal by the Department of Reauthorization of the Carl D. Perkins Vocational Education Act. The Secretary invites written comments on the current Act and suggestions for changes for consideration by the Department during development of the proposal.

DATE: Written comments should be submitted on or before July 31, 1988.

ADDRESS: Written comments should be addressed to: Perkins Act Reauthorization, 400 Maryland Avenue SW., Reporters Building, Room 620 (Mail Stop 5609), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Perkins Act Reauthorization, 400 Maryland Avenue SW., Reporters Building, Room 620 (Mail Stop 5609), Washington, DC 20202.

SUPPLEMENTARY INFORMATION: The Perkins Act has three major components: Basic State Grants, which provide funds to State educational agencies for vocational education program improvement, innovation, and expansion, and to ensure that vocational education opportunities are made available to certain special populations; Special Programs, which provide grants to States for several specific vocational education programs, including consumer and homemaking education and community-based organizations; and National Programs, which provide funding for a variety of vocational education purposes, including bilingual vocational training, Indian and Hawaiian Natives programs, the National Center for Research in Vocational Education, the National Occupational Information Coordinating Committee, and discretionary research activities.

In preparing its reauthorization bill, the Department will undertake a thorough review of evaluation data related to vocational education, and will solicit comments from and consult with those who have an interest in this program. The Secretary wishes to ensure that there is a full and frank discussion of all the issues and that the Department's final proposal reflects the most effective means of improving vocational education and ensuring that

all students have high-quality vocational opportunities.

Need for Reauthorization

The authorization for the Perkins Act expires on September 30, 1989. In order to contribute in a timely manner to the congressional reauthorization discussions, the Secretary is beginning to review the Perkins Act at this time. To ensure an opportunity for public participation, the Secretary invites public comments on the reauthorization.

Issues for Public Comment

Among the issues the Department will consider in developing its reauthorization proposal for the Perkins Act are—

- Whether the Perkins Act, with its reliance on a formula-driven State grant mechanism, is the best vehicle for advancing the Federal role in vocational education, or whether an entirely new approach should be considered;
- How to improve accountability for the effective use of Federal vocational education funds;
- How to encourage the integration of basic skills into vocational education curricula so that vocational students emerge fully competent to deal with changing work environments;
- What strategies will be most effective in ensuring that appropriate vocational education opportunities are made available to the disadvantaged and the handicapped, as well as other special population groups;
- Whether and how to ease the administrative burden caused by the requirements of the current Perkins Act; and
- What national vocational education programs are most needed and what direction the national effort should take.

Format for Comments

This request for comments is designed to elicit views of interested parties on how the current Perkins Act can be improved.

The Secretary requests that each respondent identify his or her role in vocational education. In proposing modifications or alternatives, the respondents may want to address each issue listed under Issues for Public Comment.

The Secretary urges each commenter to be specific regarding his or her suggestions and to include, if possible, the data requirements, procedures, technology, division of responsibility, and actual legislative language changes that the commenter suggests for the Perkins Act programs.

Dated: May 24, 1988.

William J. Bennett,
Secretary of Education.

[FR Doc. 88-12088 Filed 5-27-88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/JA(EU)-43, for the retransfer of 2.6 grams of uranium enriched to approximately 19.2 percent in the isotope uranium-235 from the Federal Republic of Germany to Japan, for use as a radiation source for calibration of a monitoring detector.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: May 24, 1988.

George J. Bradley, Jr.,
Principal Deputy Assistant Secretary for
International Affairs and Energy
Emergencies.

[FR Doc. 88-12142 Filed 5-27-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2387-001 et al.]

Hydroelectric Applications; the City of Holyoke, Gas & Electric Department, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. *Type of Application:* New Minor License.

b. *Project No.:* 2387-001.

c. *Date Filed:* March 31, 1987.

d. *Applicant:* The City of Holyoke, Gas & Electric Department.

e. *Name of Project:* Number 2 Hydro Unit.

f. *Location:* First and Second Level Canals of the Holyoke Canal Systems off of the Connecticut River in Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. George E. Leary, The City of Holyoke, Gas & Electric Department, 70 Suffolk Street, Holyoke, MA 01040, (413) 536-9311.

i. *FERC Contact:* Steven H. Rossi, (202) 376-9814.

j. *Comment Date:* July 1, 1988.

k. *Description of Project:* The existing operating project commenced operation in 1938 and was issued an initial license in 1965, which will expire in 1988. The licensee has filed for a new license for the continued operation of the project. The existing project consists of: (1) An intake at the wall of the Holyoke first level canal; (2) two parallel 9-foot-diameter steel penstocks each 240 feet long; (3) one surge tank about 17 feet high and 10 feet in diameter; (4) a powerhouse 60 feet long, 40 feet wide and about 50 feet high, containing one vertical turbine-generator unit rated 800-kW and 1,017-hp; (5) two parallel brick arched tailrace conduits, each 9 feet wide, 10 feet high and 120 feet long, discharging into the Holyoke second level canal; (6) one 4.8-kV transmission line, 800 feet long; and (7) appurtenant facilities. The project generates an average of 4,243.4 MWh annually.

l. *Purpose of Project:* Project power would continue to be sold to the customers of the City of Holyoke, Gas & Electric Department.

m. *This notice also consists of the following standard paragraphs: B and C.*

2 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10524-000.

c. *Date Filed:* December 10, 1987.

d. *Applicant:* North Coast Development Co. Inc.

e. *Name of Project:* Power Creek.

f. *Location:* On Power Creek in Sections 5, 8, 4, 9, and 34 Copper River Meridian near Cordova, Alaska.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Howard T. Harstad, North Coast Development Co. Inc., P.O. Box 98787, Des Moines, WA 98198, (206) 243-8604.

i. *FERC Contact:* Ms. Julie Bernt, (202) 376-9812.

j. *Comment Date:* July 11, 1988.

k. *Description of Project:* The proposed project would consist of: (1) An intake structure at water surface elevation 430 feet at a 60 acre pond on a side branch of Power Creek; (2) a 7,600-foot-long pressure tunnel; (3) three 50-foot-long, 30-inch-diameter penstocks; (4) a powerhouse containing three generating units each with a rated capacity of 2,000 kW; and (5) a 7-mile-long transmission line. Applicant estimates the average annual energy production to be 30 GWh and the cost of the work to be performed under the preliminary permit to be \$225,000.

l. *Purpose of Project:* The power would be sold to the local power company.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

3 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10529-000.

c. *Date Filed:* December 23, 1987.

d. *Applicant:* PRODEK, INC.

e. *Name of Project:* Skiatook Dam.

f. *Location:* On Hominy Creek, near Skiatook, Osage County, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Flake H. Wells, PRODEK, INC., 2431 East 61st Street, Suite 318, Tulsa, Oklahoma 74136, (918) 749-7749.

i. *FERC Contact:* Michael Dees, (202) 376-9414.

j. *Comment Date:* July 1, 1988.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Skiatook Dam and reservoir and would consist of: (1) A proposed steel penstock 9 feet 9 inches in diameter and 1,073 feet long; (2) a proposed reinforced concrete powerhouse 27 feet by 60 feet housing a 1,040-kW hydropower unit; (3) a proposed tailrace 25 feet long; (4) a proposed 14.4-kV transmission line 600 feet long; and (5) appurtenant facilities. The estimated annual energy production is 5.4 GWh. Project power would be sold to Verdigris Valley Electric Cooperative, Inc. Applicant estimates that the cost of

the work to be performed under the preliminary permit would be \$60,000 to \$90,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

4 a. *Type of Application:* Exemption (5MW or less).

b. *Project No.:* 9078-002.

c. *Dated Filed:* October 30, 1987.

d. *Applicant:* Highland Construction.

e. *Name of Project:* Cove

Hydroelectric Project.

f. *Location:* On Hatchet Creek in Shasta County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Contact Person:* Fred Castagna, Mega Renewables, 2576 Hartnell Avenue, Redding, California 96002, Phone: (916) 222-1414.

i. *FERC Contact:* Nanzo T. Coley, (202) 976-9416.

j. *Comment Date:* June 20, 1988.

k. *Description of Project:* The proposed project would consist of: (a) A proposed intake structure; (b) a proposed 4-foot-diameter by 12,000-foot-long steel penstock; (c) a proposed powerhouse containing one generating unit rated at 5,000 kW; (d) a proposed approximately 10,280-foot-long, 13.8 kV transmission line; and (e) appurtenant facilities. The estimated average annual energy output is 14,100,000 kWh.

l. *Purpose of Project:* Power produced at the project would be sold to the Pacific Gas and Electric Company.

m. *This notice also consists of the following standard paragraphs:* A3, A9, B, C and D3a.

5 a. *Type of Filing:* Transfer of License.

b. *Project No.:* 3407-010.

c. *Date Filed:* April 6, 1988.

d. *Applicants:* Cook Electric, Inc. and Magic Reservoir Hydroelectric, Inc.

e. *Name of Project:* Magic Dam Project.

f. *Location:* On the Big Wood River in Blaine and Camas Counties, Idaho. The project would occupy lands of the United States administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contacts:*

Warren P. Chapman, Cook Electric, Inc., 2356 Beryl Avenue, P.O. Box 1071, Twin Falls, ID 83303, (208) 734-3252

Jay R. Jackson, Magic Reservoir Hydroelectric, Inc., 2399 S. Orchard Street, Suite 201, Boise, ID 83705, (208) 336-3189

i. *FERC Contact:* Thomas Dean, (202) 376-9562

j. *Comment Date:* June 22, 1988.

k. *Description of Application:* Cook Electric, Inc. (transferor) proposes to

transfer its license issued on January 15, 1987, to Magic Reservoir Hydroelectric, Inc. (transferee) in order to facilitate the financing of the licensed project. The transferee is a corporation organized under the Idaho Business Corporation Act. The transferee States that it will comply with all applicable state laws as required by section 9(b) of the Federal Power Act.

l. *This notice also consists of the following standard paragraphs:* B & C.

6 a. *Type of Application:* Surrender of License.

b. *Project No.:* 3285-006.

c. *Dated Filed:* April 13, 1988.

d. *Applicant:* Trinity River Authority of Texas.

e. *Name of Project:* Lake Livingston Hydro Project.

f. *Location:* On the Trinity River in Polk, San Jacinto, Walker and Trinity Counties, Texas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Danny F. Vance, General Manager, Trinity River Authority of Texas, 5300 S. Collins Street, P.O. Box 60, Arlington, TX 76010, (817) 467-4343.

i. *FERC Contact:* Ed Lee on (202) 376-9116.

j. *Comment Date:* July 5, 1988.

k. *Description of Application:* The license for this project was issued on May 22, 1987, for an installed capacity of 50 MW. The licensee state that it has determined that the project would be economically infeasible. No construction has commenced at the project site.

l. *This notice also consists of the following standards paragraphs:* B and C.

7 a. *Type of Application:* Surrender of License.

b. *Project No.:* 6279-004.

c. *Date Filed:* April 15, 1988.

d. *Applicant:* F. & T. Services Corporation.

e. *Name of Project:* Bayou D'Arbonne Hydroelectric Project.

f. *Location:* On Bayou D'Arbonne, in Union Parish, Louisiana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Vincent A. Forte, Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, LA 70896, (504) 927-9321.

i. *FERC Contact:* Peter Lyse (202) 376-1850.

j. *Comment Date:* July 5, 1988.

k. *Description of Application:* The license for this project was issued January 31, 1986, for an installed capacity of 1,800 kW. The licensee states that it has determined that the project would be economically

infeasible. No construction has commenced at the project site.

1. *This notice also consists of the following standard paragraphs: B and C.*

8 a. *Type of Application:* Surrender of License.

b. *Project No.:* 8201-004.

c. *Date Filed:* April 15, 1988.

d. *Applicant:* F and T Corporation.

e. *Name of Project:* Caddo Lake Hydro Project.

f. *Location:* Cypress Bayou at Caddo Lake in Caddo Parish, Louisiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Ralph L. Laukhuff, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, LA 70896, (504) 927-9321.

i. *FERC Contact:* Ed Lee, (202) 376-9116.

j. *Comment Date:* July 5, 1988.

k. *Description of Project:* The license for this project was issued May 22, 1986, for an installed capacity of 1.5 MW. The licensee state that it has determined that the project would be economically infeasible. No construction has commenced at the project site.

1. *This notice also consists of the following standard paragraphs: B and C.*

9 a. *Type of Application:* Exemption Under 5 MW.

b. *Project No.:* 9403-001.

c. *Date Filed:* November 27, 1987.

d. *Applicant:* Hoskins Diversified Industries.

e. *Name of Project:* HDI Mascoma Dam.

f. *Location:* On the Mascoma River in the City of Lebanon, Grafton County, New Hampshire.

g. *Filed Pursuant to:* Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2709.

h. *Applicant Contact:* Mr. Matthew Bonaccorsi, Timothy Buzzell & Associates, Inc., Lebanon, NH 03766, (603) 448-3245.

i. *FERC Contact:* Charles T. Rasbe, (202) 376-9778.

j. *Comment Date:* July 5, 1988.

k. *Description of Project:* The proposed project would consist of: (1) An existing 285-foot-long 21.7 foot-high timber, rock and concrete dam having two 123-foot-long spillway sections with spillway crest elevation 502.7 feet MSL surmounted by 17-inch-high flashboards and separated by a waste-gate section; (2) an existing reservoir having a 5-acre surface area and a 20-acre-foot storage capacity at surface elevation 502.7 feet MSL; (3) an existing intake structure and pressure box; (4) an existing powerhouse, which is an integral part of a mill complex, having an existing 150-kW generating unit to be rehabilitated

and a proposed 175-kW generating unit, both to be operated at a 14.4-foot head; (5) an existing 100-foot-long tailrace, to be enlarged having surface elevation 488.3 feet MSL; (6) a proposed 400-foot-long transmission line and a transformer; and (7) appurtenant facilities.

The application was filed during the term of applicant's preliminary permit. Applicant estimates that the annual energy production would be 1,300,000 kWh. The project would be operated run-of-river.

l. *Purpose of Exemption:* An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

m. *This notice also consists of the following standard paragraphs: A3, A9, B, C, D3a.*

Standard Paragraphs

A5. Preliminary Permit

Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit

Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of Intent

A notice of intent must specify the exact name, business address, and

telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) name in this public notice.

A10. Proposed Scope of Studies under Permit

A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparing of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Acting Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203-RB, at the above-mentioned address. A copy of any notice of intent, competing

application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Agency Comments

The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are required, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, state and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: May 24, 1988.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 88-12078 Filed 5-27-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3388-4]

Agency Paperwork Reduction Act Requests Completed by OMB

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces Office of Management and Budget (OMB) action on the Information Collection Request (ICR) submitted by EPA.

Correction

EPA ICR # 1028; Pesticide Manufacturing Facility Census for 1986; OMB action of 4/11/88 (OMB # 2040-0111), was a partial approval. Part A of the questionnaire (Technical Information) was approved; Part B (Financial and Economic Information) was disapproved.

FOR FURTHER INFORMATION CONTACT:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M St. SW. Washington, DC 20460, Telephone No. (202) 382-2740,

or

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW. Washington, DC 20503, Telephone No. (202) 395-3084.

Date: May 20, 1988.

Paul Lapsley,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88-12104 Filed 5-27-88; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-3388-9]

Water Quality Act of 1987 Implementation; Draft Guidance Document Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a draft document which describes EPA's "Strategy for Interim Implementation of Sludge Requirements in Permits Issued to POTWs." This notice supplements earlier notices of availability of draft guidance documents designed to implement new requirements created by the Water Quality Act of 1987 ("WQA") (52 FR 33643, September 4, 1987, and 52 FR 35582, September 22, 1987).

DATE: Copies of this document will be available for public comment from EPA Office of Water for a period of 60 calendar days, beginning May 31, 1988.

ADDRESSES: Copies of this document can be obtained by writing to Ms. Debora Clovis, Permits Division, EN-

336, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 or by telephoning her at (202) 475-7052.

All comments should be mailed to Debora Clovis, at the above address.

FOR FURTHER INFORMATION CONTACT: Martha Kirkpatrick, telephone: (202) 475-9529.

SUPPLEMENTARY INFORMATION: The WQA establishes an expanded program by EPA and States for the control of those toxic pollutants in sewage sludge which may adversely affect public health or the environment. EPA is to promulgate standards for sludge use and disposal to control those pollutants and to implement those standards through permits issued to publicly-owned treatment works (POTWs) and other treatment works treating domestic sewage. These technical standards will be proposed in a separate Federal Register notice of proposed rulemaking. In another related rulemaking, EPA has proposed rules for including sludge requirements in NPDES permits and for approving State sludge management programs (53 FR 7642, March 9, 1988).

In the interim before promulgation of the technical standards for sewage sludge use and disposal, the WQA directs EPA to include sludge requirements to NPDES permits issued to POTWs or to take other measures to protect public health and the environment. In response, EPA has developed a draft interim implementation strategy for including sludge requirements in permits (re)issued to POTWs. The strategy: (1) Discusses the identification of permitting priorities for sludge, and establishes minimum permit requirements; (2) discusses the role and content of the forthcoming permit writers' guidance for writing interim sludge limits; (3) describes the State and EPA coordination on interim permitting; and (4) provides model documents for use in interim implementation (e.g., boilerplate permit language, State/EPA agreement, etc.).

The Strategy sets forth the framework for including sludge requirements in POTWs' permits in the interim before the technical sludge standards are promulgated. After public comments are received and reviewed, the Strategy will be revised and distributed in final form.

Dated: May 20, 1988.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 88-12107 Filed 5-27-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM**Agency Forms Under Review**

May 24, 1988.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF-83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following recordkeeping and disclosure requirements, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before June 15, 1988.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503.

For Further Information Contact: A copy of the request for clearance (SF-83), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the

agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

Proposal To Approve Under OMB Delegated Authority the Extension Without Revision of the Following**1. Recordkeeping and Disclosure Requirements in Connection with Regulation BB (Community Reinvestment)**

Agency Form Number: Not applicable.
OMB Docket Number: OMB No. 7100-0197.

Frequency: On occasion.
Reporters: State member banks.
Annual Burden Hours: 6137.
Small businesses are affected.
General description of report:
This information collection is mandatory (12 U.S.C. 2901) and is not given confidential treatment.

Regulation BB implements the Community Reinvestment Act and is designed to encourage banks to help meet the credit needs of their communities.

2. Recordkeeping and Disclosure Requirements in Connection With Regulation Z (Truth in Lending)

Agency Form Number: Not applicable.
OMB Docket Number: OMB No. 7100-0199.

Frequency: On occasion.
Reporters: State member banks.
Annual Burden Hours: 1,871,708.
Small businesses are affected.
General description of report:
This information collection is mandatory (15 U.S.C. 1601 *et seq.*) and is not given confidential treatment.

Regulation Z prescribes uniform methods of computing the cost of credit, disclosure of credit terms, and procedures for resolving billing errors on certain credit accounts.

3. Recordkeeping and Disclosure Requirements in Connection with Regulation E (Electronic Fund Transfers)

Agency Form Number: Not applicable.
OMB Docket Number: OMB No. 7100-0200.

Frequency: On occasion.
Reporters: State member banks.
Annual Burden Hours: 581,166.
Small businesses are affected.
General description of report:
This information collection is mandatory (15 U.S.C. 1693 *et seq.*) and is not given confidential treatment.

Regulation E establishes the rights, liabilities, and responsibilities of parties in electronic fund transfers and protects consumers using EFT systems.

4. Recordkeeping and Disclosure Requirements in Connection With Regulation B (Equal Credit Opportunity)

Agency Form Number: Not applicable.
OMB Docket Number: OMB No. 7100-0201.

Frequency: On occasion.
Reporters: State member banks.
Annual Burden Hours: 102,872.
Small businesses are affected.
General description of report:
This information collection is mandatory (15 U.S.C. 1691) and is given confidential treatment.

Regulation B prohibits creditors from discriminating against credit applicants on any of the bases specified by the Equal Credit Opportunity Act, establishes guidelines for gathering and evaluating credit information and requires creditors to give applicants a written notification of rejection of an application.

5. Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing)

Agency Form Number: Not applicable.
OMB Docket Number: OMB No. 7100-0202.

Frequency: On occasion.
Reporters: State member banks.
Annual burden hours: 10,024.
Small businesses are affected.
General description of report:
This information collection is mandatory (15 U.S.C. 1601) and is not given confidential treatment.
Regulation M implements the consumer leasing provisions of the Truth in Lending Act.

6. Recordkeeping and Disclosure Requirements in Connection With the Right to Financial Privacy Act

Agency Form Number: Not applicable.
OMB Docket Number: OMB No. 7100-0203.

Frequency: On occasion.
Reporters: State member banks.
Annual burden hours: 11,367.
Small businesses are affected.
General description of report:
This information collection is mandatory (12 U.S.C. 3401 *et seq.*) and is given confidential treatment.

The Right to Financial Privacy Act prescribes a recordkeeping requirement regarding the maintenance of a record of instance in which consumer financial information held by the institution is released to a government agency.

7. Recordkeeping and Disclosure Requirements Associated With Securities Transactions Pursuant to Section 208.8(k) (2,3 and 5) of Regulation H

Agency Form Number: Not applicable.

OMB Docket Number: 71000-0196.

Frequency: On occasion.

Respondents: State-chartered member banks and trust companies.

Annual burden hours: 152,461.

Small businesses are not affected.

General description of requirements:

These requirements are authorized by law (12 U.S.C. 248(a)(1) and 325).

The disclosure and recordkeeping requirements under this section of Regulation H are imposed on state-chartered member banks and trust companies that effect securities transactions for customers. They require customer notification, recordkeeping and written policies and procedures to protect customers, to avoid or settle customer disputes and to protect the bank against potential liability under the "antifraud" and insider trading provisions of the Securities Exchange Act of 1934.

8. Recordkeeping and Disclosure Requirements Associated With Real Estate in Flood Hazard Areas Pursuant to Section 208.8(e) of Regulation H

Agency Form Number: Not applicable.

OMB Docket Number: 7100-0196.

Frequency: On occasion.

Respondents: State-chartered member banks.

Annual burden hours: 6540.

Small businesses are affected.

General description of requirements:

These requirements are authorized by law (12 U.S.C. 325). The disclosure and recordkeeping requirements under this section of Regulation H are imposed on state-chartered member banks to implement requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b) as amended). The regulation forbids banks to make or renew loans secured by real estate located in a flood hazard area unless the property is covered by flood insurance and requires them to keep records in connection with all loans secured by such real estate. It also requires member banks to provide notice to borrowers (1) that the property securing a loan is located in a flood hazard area; and (2) whether, in the event of damage to the property caused by flooding in a federally declared disaster, federal disaster relief assistance will be available for such property.

Board of Governors of the Federal Reserve System, May 24, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-12047 Filed 5-27-88; 8:45 am]

BILLING CODE 6210-01-M

John L. Cutter; Change in Bank Control Notice; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

The notice corrects previous **Federal Register** notice (FR Doc. 88-11668) published at page 18903 of the issue for Wednesday, May 25, 1988.

Under the Federal Reserve Bank of Chicago, the date of the end of comment period for First Mil Bank is changed to close on June 1, 1988.

Board of Governors of the Federal Reserve System, May 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-12212 Filed 5-27-88; 8:45 am]

BILLING CODE 6210-01-M

Keycorp et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of the fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 17, 1988.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. **Keycorp**, Albany, New York, and Key Bancshares of Idaho, Inc., Boise, Idaho; to acquire 100 percent of the voting shares of IB&T Corporation, Boise, Idaho, and thereby indirectly acquire Idaho Bank and Trust Company, Pocatello, Idaho, and First Bank of Troy, Troy, Idaho. In connection with this application, Key Bancshares of Idaho, Inc. has applied to become a bank holding company.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 LaSalle Street, Chicago, Illinois 60690:

1. **MAH Bancorp, Inc.**, Orland Park, Illinois; to become a bank holding company by acquiring 99.15 percent of the voting shares of Republic Bank of Chicago, Chicago, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. **Baden Bancorp, Inc.**, Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of New Baden, New Baden, Illinois, and also merge with Lookingglass Banc Corp., Albers, Illinois, and thereby indirectly acquire Peoples Bank of Albers, Albers, Illinois.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. **Gustine-DeLeon Bancshares, Inc.**, Gustine, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First State Bank, Gustine, Texas.

Board of Governors of the Federal Reserve System, May 24, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-12045 Filed 5-27-88; 8:45 am]

BILLING CODE 6210-01-M

J.P. Morgan & Co., Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 13, 1988.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045.

1. *J.P. Morgan & Co. Incorporated*, New York, New York; to engage *de novo* in making, acquiring, or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's accounts or for the account of others, such as would be made, for example, by the following types of companies: (i) Consumer finance; (ii) credit card; (iii) mortgage; (iv) commercial finance; and (v) factoring; pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted throughout the United States and abroad.

B. Federal Register Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Chicago Corporation*, Chicago, Illinois; to engage *de novo* through its subsidiary, *First Chicago Capital Markets, Inc.*, Chicago, Illinois, and thereby engage in underwriting and dealing in obligations of the United States pursuant to § 225.25(b)(16) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105.

1. *Wells Fargo & Co.*, San Francisco, California; to engage *de novo* through its subsidiary, *Crecker Life Insurance*

Company, Oakland, California, in underwriting and/or reinsuring home mortgage redemption insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 24, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-12046 Filed 5-27-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Program Announcement and Availability of Funds for Fiscal Year 1988 for Epidemiologic Research Studies and the Evaluation of Surveillance of Pediatric Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) Infection

The Centers for Disease Control (CDC) announces a program for competitive cooperative agreement and/or research project grant applications to conduct epidemiologic research studies of AIDS and HIV infection and surveillance of pediatric AIDS. These include studies of: Heterosexual and homosexual transmission; specific high-risk populations such as homosexual and bisexual males; selected pediatric populations; and HIV seroprevalence in select patient populations. The study of these research areas as they pertain to minority populations should be addressed because minorities constitute over 76% of all reported cases among women and children.

I. Authority

These cooperative agreements and/or grants are authorized under sections 301(a), 311, and 318(d) of the Public Health Service Act, as amended. Regulations are set forth in 42 CFR Part 52, entitled "Grants for Research Projects." The Catalog of Federal Domestic Assistance Number is 13.118.

II. Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, and other public and private organizations, State and local health departments and small, minority and/or women-owned businesses are eligible for these grants and/or cooperative agreements.

III. Background

The epidemic of acquired immunodeficiency syndrome (AIDS) continues in the United States with over 55,000 cases reported to CDC as of March 1, 1988. The Public Health Service estimates that more than 1 million Americans are infected with HIV, the etiologic agent of AIDS, and that by 1991, the cumulative cases of AIDS meeting the CDC surveillance definition will total more than 270,000. Almost 60 percent of all reported AIDS cases have died, and the death toll is expected to rise to 179,000 by 1991. Blacks and Hispanics are disproportionately represented in reported cases as over 21,000 or 38% of all cases have been reported in these persons. This number is about twice what it should be if cases were proportional to their representation in the U.S. population. Among almost 900 children reported with AIDS, 54% are black and 22% are Hispanic, and of over 4,000 adult women reported with AIDS, 52% are black and 17% Hispanic. HIV, a human retrovirus, is transmitted sexually, through blood and blood products, through contaminated needles, and perinatally. Studies have found no evidence that AIDS is spread by casual contact with infect person, and the advent of an antibody test for the virus in 1985 has virtually eliminated the risk of acquiring AIDS from donated blood or plasma. Additional studies of the epidemiology of AIDS and HIV infection are needed to guide prevention and control efforts. Such issues as the surveillance of pediatric AIDS, risks of transmission, prevalence and trends in select populations, and the effectiveness of various prevention and control measures need to be studied thoroughly.

IV. Purpose

The purpose of these awards is to assist researchers in the study of important epidemiologic questions concerning risks of transmission, evaluating the surveillance of pediatric AIDS, the prevalence and trends of disease in certain populations, and the development and evaluation of behavioral recommendations for reducing AIDS and HIV infection.

V. Program Requirements

A. Cooperative Agreements

In a cooperative agreement, the CDC will assist the collaborator in conducting epidemiologic research of AIDS and HIV infection as described in section VI. The application should be presented in a manner that demonstrates the applicant's ability to address the

research problem in a collaborative manner with the CDC. In addition to the financial support provided, the CDC will provide assistance to the collaborator by: Providing technical assistance in the design and conduct of the research; providing technical guidance in the development of study protocols, consent forms, and questionnaires, including training and pretesting as necessary; assisting in designing a data management system; performing selected laboratory tests; coordinating research activities among the different sites, including laboratories and consultants; and participating in the analysis of research information and the presentation of research findings.

B. Research Project Grants

A research project grant application should be intended and designed to establish, discover, develop, elucidate, or confirm information relating to the epidemiology of AIDS and HIV infection, as described in section VI, including innovative methods, techniques, and approaches for dealing with questions surrounding the epidemiology of AIDS and HIV infection. These studies may generate information that is readily available to solve problems or contribute to a better understanding of the field.

C. Determination of Which Instrument to Use

Applicants must specify the type of award for which they are applying, either grant or cooperative agreement. The funding agency will review the application in accordance with the appropriate criteria. Projects funded through a cooperative agreement that involve collection of information from 10 or more individuals will be subject to review under the Paperwork Reduction Act.

VI. Programmatic Interest

Research concerns of programmatic interest to the health care community and CDC for FY 1988 are listed below. Of special interest are programs that examine these research issues as they impact on minority populations. Those listed are considered to be of significant importance in gaining a greater understanding of the epidemiology of AIDS and HIV infection. However, applications submitted by organizations that are with the purpose set forth in paragraph IV, above will also be accepted and considered for funding. The FY 1988 epidemiologic research issues include:

A. Prospective epidemiologic studies of the sexual transmission of HIV among monogamous couples in order to

elucidate the infectivity and transmissibility of HIV by heterosexual or homosexual contact. Couples should be comprised of an infected (seropositive) and an uninfected (seronegative) partner. Studies should address behavioral and/or biologic factors leading to the sexual transmission or nontransmission of the virus. Applicants must be able to demonstrate that: sexual transmission of HIV is occurring in the population to be studied at a rate sufficient to answer the proposed research objectives; and that uninfected partners are exposed to HIV through monogamous sexual intercourse and are not concurrently exposed to HIV through other routes (e.g., intravenous drug use, blood transfusion, etc.). Preference will be given to proposals in which large numbers of couples will be studied; all proposals should include a minimum of ten (10) couples. If prospective longitudinal studies are proposed, appropriate counseling and risk reduction education should be provided to subjects at risk for infection.

B. Epidemiologic study of genital ulcer disease as a risk factor for HIV infection in heterosexual adults. Studies should be designed to determine the behavioral risk factors for and prevalence of HIV infection in persons with recent genital ulcer disease, such as chancroid, syphilis, and herpes simplex virus infection (case patients), and a comparable group of persons without recent genital ulcer disease (control patients).

C. Epidemiologic study to determine whether HIV can be transmitted in settings involving close contact among young children or children who are neurologically handicapped, such as daycare centers, nurseries, institutions, etc. Proposals should address the issues of possible child-to-child transmission and child-to-caretaker transmission, and how other possible risk factors for infection will be excluded in HIV-positive persons.

D. Evaluate to what extent the surveillance definitions used for AIDS in children and the pediatric case reporting systems currently in use by health departments, hospitals and clinicians measure pediatric HIV-related morbidity in their community. This should be done through active surveillance of pediatric HIV infection over a defined time period to determine: The number of symptomatic and asymptomatic children in the study area; the proportion of infected children with AIDS by CDC surveillance definition; and the proportion of children with AIDS actually reported at the beginning and end of the period. The social and

economic impact of pediatric HIV infection in the study area may also be examined, by analyzing information on the children identified through the active surveillance, such as daycare or school attendance, foster care placement, or medical care costs. The effect of AIDS on minority children in these areas will be of particular interest. Eligible applicants include health departments or hospitals serving metropolitan regions with more than 10 reported pediatric AIDS cases. Hospitals must document how they will coordinate efforts with their State or local health department. Approved study collaborators will be asked to develop similar research methods so that different geographic sites can be compared.

VII. Availability of Funds

A total of \$2 million is available in Fiscal Year 1988 to fund approximately 8 new cooperative agreements and grants. Awards are generally expected to range from \$100,000 to \$350,000. Applications should be submitted for a 12-month budget period and a 1 to 5-year project period. Continuation awards within project period will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. The funding estimates outlined above may vary and are subject to change, depending upon the availability of funds.

VIII. Reporting Requirement

Annual performance and financial status reports are required no later than 90 days after the end of each budget period. Final financial status and performance reports are required 90 days after the end of each project period.

IX. Applications

A. Multiple Applications

Applicants may submit more than one application under this announcement. Each application, however, must be complete as it will be evaluated separately without reference to any other application.

B. Copies—Place of Submission

1. Schedule

Application shall be submitted on Form PHS-5161-1 (revised 3-86) and will be accepted in accordance with the following schedule. The schedule also sets forth dates for objective review and anticipated award dates:

Deadline date	Objective review	Award date	Start date
July 15..... Dec. 1.....	Aug. 15..... Feb. 1.....	Sept. 15..... March 1.....	Sept. 30 Apr. 1

2. Copies and place of submission

The signed original and two copies must be submitted to: Henry S. Cassell, III, Grants Management Officer, Procurement and Grants Office, Centers for Disease Control, Room 321, Mail Stop E14, 255 East Paces Ferry Road NE., Atlanta, Georgia 30305.

Application forms should be available in the institution's business office or from the above address.

C. Deadlines

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date.
2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing).

D. Late Applications

Applications that do not meet the criteria in either paragraph C.1. or C.2. immediately above are considered late applications and will be considered in the next competition.

E. Reviews

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

X. Review Criteria

A. Applications will be reviewed and evaluated based on the evidence submitted which specifically describes the applicants' abilities to meet the following criteria:

1. The plans to develop and implement the study describing how study participants will be identified, enrolled, tested, and followed.
2. The ability to enroll and follow an adequate number of eligible study participants to assure proper conduct of the study. The known or projected prevalence of HIV infection in the population to be studied will be an important area of consideration.
3. The plan to protect the rights and confidentiality of all participants and ensure adequate participation.

4. The applicant's understanding of the research study objectives and their ability, willingness and/or need to cooperate in a study with CDC.

5. The applicant's current activities in AIDS and HIV research and how they will be applied to achieving the objectives of the study. Letters of support from cooperating organizations should be included that demonstrate the nature and extent of such cooperation.

6. The size, qualifications, and time allocation of the proposed staff and the availability of facilities to be used during the research study.

7. How the project will be administered.

8. The proposed schedule for accomplishing the activities of the research, including time frames.

9. The quality of an evaluation plan which specifies the methods and instruments to be used.

10. The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds.

B. Future continuation awards within the project period will be made on the basis of the following criteria:

1. The accomplishments of the current budget period show that the applicant is meeting its objectives.
2. The objectives for the new budget period are realistic, specific, and measurable.
3. The methods described will clearly lead to achievement of these objectives.
4. The evaluation plan will enable the recipient to monitor whether the methods are effective.
5. The budget requested is clearly explained, adequately justified, reasonable, and consistent with the intended use of funds.

XI. Information

Information on application procedures, copies of application forms, and other material may be obtained from Harvey Rowe, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 321, Atlanta, Georgia 30305, or by calling (404) 842-6575, FTS 236-6575. Technical information and assistance may be obtained from John Narkunas, AIDS Program, Center for Infectious Diseases, Centers for Disease Control, Atlanta, Georgia 30333, Telephone (404) 639-3162, FTS 236-3162.

Dated: May 24, 1988.

Robert L. Foster,
Acting Director, Office of Program Support,
Centers for Disease Control.

[FR Doc. 88-12077 Filed 5-27-88; 8:45 am]

BILLING CODE 4160-10-M

Food and Drug Administration

[Docket No. 88G-0135]

E.I. du Pont de Nemours & Co.; Filing of Petition For Affirmation of GRAS Status

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that E.I. du Pont de Nemours & Co. has filed a petition (GRASP 8G0340), proposing that chlorodifluoromethane be affirmed as generally recognized as safe (GRAS) for use as a blowing agent in the production of foamed polystyrene food-contact articles.

DATE: Comments by August 1, 1988.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 8G0340) has been filed by E.I. du Pont de Nemours & Co., c/o 1150 17th Street NW., Washington, DC 20036, proposing that chlorodifluoromethane (CDFM, HCFC-22) be affirmed as GRAS for use as a blowing agent in the production of foamed polystyrene food-contact articles. The petitioner has also proposed that the residual chlorodifluoromethane level in the polystyrene articles shall not exceed 5 parts per million at the time of food-contact use.

The GRAS affirmation petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in § 170.35 is filed by the agency. There is no pre-filing review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the

notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the *Federal Register* in accordance with 21 CFR 25.40(c).

Interested persons may, on or before August 1, 1988, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether this substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 13, 1988.

Richard J. Ronk,
Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-12099 Filed 5-27-88; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Center for Nursing Research; Nursing Science Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Nursing Science Review Committee, National Center for Nursing Research, June 22-24, 1988, Building 31A, Conference Room 2, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on June 22 from 9 a.m. to 11 a.m. and on June 24 from approximately 11 a.m. to adjournment. Agenda items to be discussed will include the report of the Director, NCNR, NRRC Chairman's Report, the Executive Secretary's Report, and the meeting of the Task-Force on the Research Career Trajectory. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 22 from 11 a.m. to recess, June 23, 9 a.m. to recess, and June 24 from 9 a.m. to approximately 11 a.m. for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Eileen Raizen, Executive Secretary, Nursing Science Review Committee, National Institutes of Health, Building 31A, Room 1E10, Bethesda, Maryland 20892, (301) 496-0472, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: May 24, 1988.

Betty J. Beveridge,
Committee Management Officer, NIH.
[FR Doc. 88-12136 Filed 5-27-88; 8:45 am]
BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 26-30, 1988, at the American Inn of Bethesda, 8130 Wisconsin Avenue, Bethesda, Maryland 20892.

The meeting will be open to the public on June 26, from 7:30 p.m. to approximately 8 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 26, from approximately 8 p.m. to recess, and from 8 a.m. on June 27 to adjournment on June 30, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4a-21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. David M. Monsees, Jr., Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Westwood Building, Room 500B, Bethesda, Maryland 20892, (301)

496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: May 24, 1988.

Betty J. Beveridge,
Committee Management Officer, NIH.
[FR Doc. 88-12133 Filed 5-27-88; 8:45 am]
BILLING CODE 4140-01-M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Meeting of National Arthritis and Musculoskeletal and Skin Diseases Advisory Council

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council to provide advice to the National Institute of Arthritis and Musculoskeletal and Skin Diseases on June 13 and 14, 1988, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public June 13 from 8:30 a.m. to 12 noon to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

The meeting of the Advisory Council will be closed to the public on June 13 from 1 p.m. to adjournment and again on June 14 from 8:30 a.m. to adjournment at approximately 12 noon in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Steven J. Hausman, Executive Secretary, National Arthritis and Musculoskeletal and Skin Diseases Advisory Council, NIAMS, Westwood Building, Room 403, Bethesda, Maryland 20892, (301) 496-7495.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIAMS, Building 31, Room 4C11, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-0803.

(Catalog of Federal Domestic Assistance Program No. 13.846, Arthritis, Bone and Skin Diseases, National Institutes of Health)

Dated: May 24, 1988.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 88-12130 Filed 5-27-88; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee (AMS) of the National Institute of Arthritis and Musculoskeletal and Skin Diseases on June 16, 1988, Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland. The meeting will be open to public from 8:30 a.m. to 9 a.m. to discuss administrative details or other issues relating to the committee activities. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

The meeting will be closed to the public from 9 a.m. to adjournment in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning this meeting may be obtained from Dr. Melvin Gottlieb, Executive Secretary, Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee, NIAMS, Westwood Building, Room 407, Bethesda, Maryland 20892, (301) 496-7326.

Mrs. Carole Frank, Committee Management Officer, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Building 31, Room 4C11, Bethesda, Maryland 20892, 301-496-0803, will provide summaries of the meeting and roster of the committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.846, project grants in arthritis, musculoskeletal and skin diseases research, National Institutes of Health)

Dated: May 24, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-12131 Filed 5-27-88; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings of Subcommittee B, C, and D of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of Subcommittee B, C, and D of the National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK).

These meetings will be open to the public to discuss administrative details for approximately one hour at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual research grant applications. Discussion of these applications could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Edith Wynkoop, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, Room 9A19, Bethesda, Maryland 20892, 301-496-6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee B.

Executive Secretary: Judith M. Podskalny, Westwood Building, Room 417A, National Institutes of Health, Bethesda, Maryland, 20892, Phone: 301-496-7841.

Dates of Meetings: June 29-30, 1988.

Place of Meeting: Hyatt Regency, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: June 29, 7:30 p.m.-8:30 p.m.

Closed: June 29, 8:30 p.m. to recess, June 30, 8:30 a.m. to adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee C.

Executive Secretary: Tommie Sue Tralka, Westwood Building, Room 406, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301-496-8830.

Date of Meeting: June 20, 1988.

Place of Meeting: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open: June 20, 8:30 a.m.-9:30 a.m.

Closed: June 20, 9:30 a.m. to adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee D.

Executive Secretary: William E. Elzinga, Westwood Building, Room 421, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301-496-7546.

Date of Meeting: June 20, 1988.

Place of Meeting: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open: June 20, 4:00 p.m.-5:00 p.m.

Closed: June 20, 5:00 p.m. to adjournment.

Dated: May 24, 1988.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 88-12132 Filed 5-27-88; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Advisory Council on Hazardous Substances Research and Training; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting to be held at the National Institute of Environmental Health Sciences, South Campus Conference Room, Research Triangle Park, North Carolina, on July 12, 1988. The meeting will begin at 8:30 a.m. and end at approximately 4:30 p.m. The meeting is open to the public.

The Superfund Amendments and Reauthorization Act of 1986 (SARA) established a university-based program of basic research and education program and a hazardous waste worker training program with the NIEHS. The purpose of the meeting is to provide the Advisory Council on Hazardous Substances Research and Training the opportunity to learn the status of these programs.

which were previously described in the Federal Register of November 28, 1986 (51 FR 43089-43092), December 19, 1986 (51 FR 45558-45559) (worker training program), and March 9, 1987 (52 FR 7218-7223) respectively.

Topics to be discussed during the meeting may include but are not limited to: status of the basic research and education grants program, progress under the hazardous waste worker training programs, and research programs of other Federal agencies.

Attendance is limited only by space available. For further information regarding the meeting, please contact Mr. Daniel C. VanderMeer, Executive Secretary, NIEHS, P.O. Box 12233, Research Triangle Park, N.C. 27709 or telephone 919-451-3484 or FTS 629-3483. The official Government representative for this meeting will be Dr. Anne P. Sassaman.

(Catalog of Federal Domestic Assistance Program No. 13.143, NIEHS Superfund Hazardous Substances Basic Research Program, NIH, and Program No. 13.142, NIEHS Hazardous Waste Worker Health and Safety Training, NIH)

Dated: May 24, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-12134 Filed 5-27-88; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for June 1988.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed thereafter in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual research training grant and research center grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Diffenbach, Public Information Officer, National Institute of General Medical Sciences, National

Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: A joint meeting of the: Cellular and Molecular Basis of Disease Review Committee; and the Genetic Basis of Disease Review Committee.

Executive Secretary: Ms. Linda Engel, Room 950 Westwood Bldg., Telephone: 301-496-7125.

Dates of Meeting: June 8, 1988.

Place of Meeting: Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland.

Open: June 8, 1988, 8:30 a.m.-10:30 a.m.

Closed: June 8, 1988, 10:30 a.m.-adjournment.

Name of Committee: Minority Access to Research Careers Review Committee.

Executive Secretary: Dr. Agnes Donahue, Room 949 Westwood Building, Telephone: 301-496-7585.

Dates of Meeting: June 9-10, 1988.

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

Open: June 9, 1988, 8:30 a.m.-10:30 a.m.

Closed: June 9, 1988, 10:30 a.m.-5:00 p.m., June 10, 1988, 8:30 a.m.-adjournment.

Name of Committee: Pharmacological Sciences Review Committee.

Executive Secretary: Dr. Rodney Ulane, Room 952 Westwood Building, Telephone: 301-496-4772.

Date of Meeting: June 20, 1988.

Place of Meeting: Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland.

Open: June 20, 1988, 8:30 a.m.-10:30 a.m.

Closed: June 20, 1988, 10:30 a.m.-adjournment.

(Catalog of Federal Domestic Assistance Program No. 13-859, 13-862, 13-863, 13-880, National Institute of General Medical Sciences, National Institutes of Health)

Date: May 24, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88-12135 Filed 5-27-88; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Health Resources and Services Administration; Delegation of Authority

Notice is hereby given that in furtherance of the delegation to the Administrator, Health Resources and Services Administration (HRSA), on April 11, 1988, by the Assistant Secretary for Health, the Administrator, HRSA, has delegated to the Director, Bureau of Health Care Delivery and Assistance, with authority to redelegate, all the authorities under Part D, Subparts II and III of Title III of the Public Health Service (PHS) Act, as amended, pertaining to the National Health Service Corps, excluding the authorities delegated to PHS Regional Health Administrators. Also excluded was the authority under section 332 pertaining to the designation of health manpower shortage areas.

Provision was made for all delegations and redelegations made to officials with HRSA and PHS Regions to continue in effect providing they were consistent with the delegation.

The above delegation was effective on May 16, 1988.

Date: May 16, 1988.

David N. Sundwall,
Administrator, Health Resources and Services Administration.

[FR Doc. 88-12049 Filed 5-27-88; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-88-1808]

Submission of Proposed Information Collection to the Office of Management and Budget

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Officer of Management and Budget, New

Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: May 19, 1988.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Application for Insurance—Supplementary Loan.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Section 213(j)(1) of the National Housing Act authorizes HUD to insure supplemental loans to cooperatives. The form, Application for Insurance, is submitted by a cooperative. It is needed and used to obtain an additional/supplemental insured loan.

Form Number: HUD-93201A.

Respondents: Business or Other For-Profit and Non-Profit Institutions.

Frequency of Respondents: On occasion.

Estimated Burden Hours: 10.

Status: Extension.

Contact: William Harris, HUD, (202) 755-6223; John Allison, OMB, (202) 395-6880.

Date: May 13, 1988.

Proposal: Purchase Order and Payment Authorization.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: the National Housing Act, Pub. L. 479, authorizes HUD to rent, renovate, modernize, insure, or sell for cash or credit any properties conveyed to HUD under contracts of mortgage insurance. This form, Purchase Order and Payment Authorization, is used and needed as a purchase order, contract award, contract certification of completion, and Government acceptance certification for payment.

Form Number: HUD-2542.

Respondents: Businesses or Other For-Profit.

Frequency of Respondents: Quarterly.

Estimated Burden Hours: 15,042.

Status: Reinstatement.

Contact: Audrey G. Sacrey, HUD, (202) 755-9280, John Allison, OMB, (202) 395-6880.

Date: May 13, 1988.

Proposal: Single Audit Act of 1984, Pub. L. 98-502—OMB Circular No. A-128, Audits of State and Local Governments, dated April 12, 1985.

Office: Inspector General.

Description of the Need for the Information and Its Proposed Use: These audits of State and local governments that receive Federal aid are needed to ensure that their financial statements present the results of operations fairly. They are also used to determine the extent of internal controls and to verify compliance with applicable laws and regulations.

Form Number: None.

Respondents: State or local Governments.

Frequency of Respondents: Recordkeeping and Annually.

Estimated Burden Hours: 257.

Status: Extension.

Contact: Dale C. Williams, HUD, (202) 755-6383, John Allison, OMB, (202) 395-6880.

Date: May 13, 1988.

Proposal: Fair Housing Initiatives Program Application.

Office: Fair Housing and Equal Opportunity.

Description of the Need for the Information and Its Proposed Use: This information will assist HUD in providing funds to State and local governments and public and private organizations formulating or carrying out programs to prevent or eliminate discriminatory housing practices. HUD needs this information to make awards under the Fair Housing Initiatives Program.

Form Number: None.

Respondents: State or Local Governments, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of Respondents: On Occasion.

Estimated Burden Hours: 17,500.

Status: New.

Contact: Maxine B. Cunningham, HUD, (202) 755-0455, John Allison, OMB, (202) 395-6880.

Date: May 5, 1988.

[FR Doc. 88-12109 Filed 5-27-88; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Proposed Boundary Adjustments; Death Valley and Joshua Tree National Monuments; Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management will prepare an environmental impact statement (EIS) for the transfer of five parcels of land to the National Park Service in California.

On May 19, 1988 the Western Region of the National Park Service (NPS) proposed to the California State Office of the Bureau of Land Management (BLM) that five parcels of land currently under BLM jurisdiction be transferred to two adjacent National Monuments, Death Valley and Joshua Tree. Four of the parcels, totaling 242,849 acres, would be transferred to Death Valley National Monument. One parcel, of approximately 35,000 acres, would be transferred to Joshua Tree.

All of the parcels are adjacent to the monuments to which they would be transferred. The acquisitions would provide more manageable boundaries for two monuments, and would eliminate the current split jurisdiction of several mountain ranges, plateaus, valleys, and other topographic features. The Park Service proposal is the result of several months of negotiations between the BLM and NPS, and so is intended to meet the needs of both agencies.

The parcels to be transferred include the following: Parcel 1, North Death Valley (84,389 acres) would extend the Death Valley National Monument northward so that the entire valley comes under NPS administration. Parcel 2, Hunter Mountain (26,687 acres), is a

highland plateau on the western side of the monument, a plateau currently split between NPS and BLM administration. Parcel 3, Pyramid Peak (14,268 acres), is located on the eastern side of the monument and includes those portions of Pyramid Peak and Red Amphitheater currently outside the monument. Parcel 4, Greenwater Valley (117,505 acres), is located on the southeastern side of the monument. It would bring the entire eastern slope of the Black Mountains under NPS jurisdiction, and would establish the Greenwater Valley road as a readily identifiable eastern boundary. Parcel 5, Eagle Mountains (30,000 acres), is located on the southeastern side of the Joshua Tree National Monument. It would transfer those portions of the Pinto Basin currently outside the monument to NPS, as well as part of the Eagle Mountains.

Three alternatives will be considered. Alternative A will consider transfer of all of Parcel 4 except approximately 20,000 acres in the Ibex Hills in which the historical interest in mining has been high. Alternative B will consider the transfer of only the Pinto Basin portion of Parcel 5. Alternative C will be the No Action (No Transfer) alternative.

BLM's planning regulations require that all actions must conform to the approved BLM land use plan for the area, in this case the California Desert Plan. "If a proposed action is not in conformance, and warrants further consideration before a plan revision is scheduled, such consideration shall be through a plan amendment" (43 CFR 1610.5-3). NPS management will not, in all cases, conform to the provisions of the Desert Plan. As a result, the transfer is being processed through a plan amendment, and a decision will be made only at the conclusion of that process.

The EIS will be the National Environmental Policy Act compliance document necessary to process the transfer and plan amendment. A 90-day public review of the draft EIS will be provided. The document will consider several issues, including wildlife, botany, the future of existing rights, the effect of curtailment of future mineral development, archaeological resources, and wild horses and burros.

Four public scoping meetings will be conducted to identify public comments, concerns, and interests which should be addressed by the EIS. Issues raised during these meetings will be considered to the EIS in addition to those issues which have already been described. Locations and dates follow: All meetings, will begin at 7:00 pm. In addition, a 10:00 am meeting will be held in Riverside.

Date, Time, and Location:

June 14, 1988, 10:00 am—Holiday Inn, Riverside, 1200 University Avenue, Riverside, California

June 15, 1988, 7:00 pm—Rodeway Inn, 1983 North Palm Canyon Drive, Palm Springs, California

June 16, 1988, 7:00 pm—Carriage Inn, 901 North China Lake Blvd., Ridgecrest, California

June 17, 1988, 7:00 pm—Legion Hall, Highway 395 and Kearsarge, Independence, California.

FOR FURTHER INFORMATION CONTACT:

Gerald E. Hiller, District Manager, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507.

Hugh Riecken,

Associate District Manager.

Date: May 24, 1988.

[FR Doc. 88-12076 Filed 5-27-88; 8:45 am]

BILLING CODE 4310-40-M

National Park Service

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, Telephone 202-395-7313.

Title: Park Use Survey—Carlsbad Caverns National Park.

Abstract: Results of the survey will be used in operational, planning and management activities designed to support actual public use activities and needs.

Bureau Form Number: 10-175B.

Frequency: On occasion.

Description of Respondents: Individuals or households.

Annual Responses: 3,000.

Annual Burden Hours: 376.

Russell K. Olsen,

Chief, Administrative Services Division.

[FR Doc. 88-12095 Filed 5-27-88; 8:45 am]

BILLING CODE 4310-02-M

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, Telephone 202-395-7313.

Title: Park Use Survey (Mount Rainier).

Abstract: The survey will be used in operational, planning and management activities designed to support actual public use activities and needs.

Bureau Form Number: 10-175B.

Frequency: On occasion.

Description of Respondents: Individuals or households.

Annual Responses: 3,480.

Annual Burden Hours: 435.

Bureau Clearance Officer: Russell K. Olsen, 523-5233.

Russell K. Olsen,

Chief, Administrative Service Division.

[FR Doc. 88-12096 Filed 5-27-88; 8:45 am]

BILLING CODE 4310-02-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 21, 1988. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 15, 1988.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Saline County

Bauxite vicinity, Rucker House, AR 183 and Gibbons Rd.

COLORADO**Boulder County**

Boulder vicinity, *Walker Ranch Historic District (Boundary Increase)*, 7.5 mi. W of Boulder, off Flagstaff Rd.

Cheyenne County

Cheyenne Wells, *Cheyenne County Jail*, 85 W. Second St.

Denver County

Denver, *Peters Paper Company Warehouse*, 1625-1631 Wazee St.

CONNECTICUT**Hartford County**

Granby, *Holcomb, Judah, House*, 257 N. Granby Rd.

Litchfield County

Beaver Meadow Complex *Prehistoric Archeological District*

New Haven County

Madison, *Meigs-Bishop House*, 45 Wall St.

FLORIDA**Dade County**

Coral Gables, *Coral Gables Elementary School*, 105 Minorca Ave.

GEORGIA**Jackson County**

Commerce, *Hardman, Governor L.G., House*, 208 Elm St.

MARYLAND**Baltimore (Independent City)**

Brick Hill, *Seneca St., Oakington St., Parkden Ave.*

St. Paul's Cemetery, *Redwood St. and Marting Luther King Blvd.*

NEW MEXICO**Otero County**

Alamogordo vicinity, *White Sands National Monument Historic District*, US 70/82

OHIO**Montgomery County**

Dayton, *South Park Historic District (Boundary Increase)*, Roughly bounded by Wayne, Wyoming, Nathan, Oak, Alberta, and Blaine

TEXAS**Bexar County**

San Antonio, *Fairmount Hotel, The*, 401 S. Alamo

VIRGINIA**Manassas (Independent City)**

Manassas Historic District, Roughly bounded by Quarry Rd., Prescott and Fairview Aves, the Southern RR, and Grant Ave.

Virginia Beach (Independent City)

de Witt Cottage, 1106 Atlantic Ave.

WASHINGTON**Adams County**

Othello, *Denver and Rio Grande Western Railroad Business Car No. 101*, Bruce and Lee Rds.

Douglas County

Waterville, *Canton, William J., House*, 305 W. Ash St.

King County

Mercer Island, *Lakeview School (Rural Public Schools in Washington From Early Settlement to 1945 MPS)*, Island Crest Way and S.E. Sixty-eighth St.

Seattle, *Girls' Parental School*, 6612 Sixty-fifth Ave., S.

Seattle, *Pioneer Square—Skid Road Historic District (Boundary Increase)*, 500 blk. of First Ave., S.

[FR Doc. 88-12019 Filed 5-27-88; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY**Agency for International Development****Voluntary Foreign Aid Advisory Committee; Meeting**

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on the theme: "PVO Effectiveness as Agents of Development." The meeting will be two days: Tuesday, June 21 from 2:00-5:00 p.m. and Wednesday, June 22 from 9:00 a.m.-5:00 p.m. at the Department of State. To enter the building, use C Street (Diplomatic Entrance) between 21st and 23rd Streets NW., Washington, DC.

The meeting is free and open to the public. However, notification by June 17, 1988 through the advisory committee headquarters is required by the Department of State for security purposes.

Any interested person may attend, request to appear before, or file statements with the Advisory Committee. Written statements should be filed prior to the meeting and should be available in twenty-five (25) copies.

Persons wishing to attend the meeting must call (703) 875-4407, or write, not later than June 17 to arrange entrance to the Department of State building. The address is: The Advisory Committee on Voluntary Foreign Aid, Room 305, SA-8, Agency for International Development, Washington, DC 20523.

Date: May 19, 1988.

Thomas A. McKay,

Deputy Assistant Administrator for Private and Voluntary Cooperation, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 88-12054 Filed 5-27-88; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OP3MCF-252(A)]

Motor Carrier Applications to Consolidate, Merge, or Acquire Control

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. If the protest includes a request for oral hearing, the request shall meet the requirements of 49 CFR 1182.3 and shall include the required certification. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Application(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notification of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Findings

The findings for these applications are set forth at 49 CFR 1182.6.

Noreta R. McGee,
Secretary.

MC-F-19161, filed May 11, 1988.
Carolina Coach Company (Carolina)
(P.O. Box 28086, Raleigh, NC 27611)—

Leasee—Seashore Transportation Company (Seashore) (P.O. Box 28086, Raleigh, NC, 27611)—Lessor. Representative: Lawrence E. Lindeman, P.C., 805 King St., #400, Alexandria, VA, 22314-3016. Carolina, a motor carrier holding Certificate No. MC-13300 and subnumbers thereunder, to lease the regular route operating authority of Seashore, for a three year period of time. Carolina Associates, Inc., a non-carrier, which owns all of the issued and outstanding stock of both Carolina and Seashore, joins in the application. The operating authority to be leased is contained in Certificate No. MC-26985 (Sub-Nos. 4, 5, 6, 9, 10, 11, 12, 14 (portion), 16(a) and 16(b)), which authorizes the transportation of passengers and package express over a series of regular routes extending generally between Rocky Mount, NC, on the north, and Myrtle Beach, SC, on the south, serving numerous intermediate points, including Raleigh, Fayetteville, Beaufort, Wilmington, and Jacksonville, NC. This does not purport to be a complete description of the operating rights involved. The common control of Carolina and Seashore was approved in No. MC-F-16030.

[FR Doc. 88-11960 Filed 5-27-88; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 31279]

Chesapeake Western Railway; Trackage Rights Exemption; Norfolk and Western Railway Co.

Norfolk and Western Railway Company (NW) has agreed to grant overhead trackage rights to Chesapeake Western Railway Company (CW) between milepost H-112.6 at Elkton, VA, and the north end of Shenandoah Yard, milepost H-105.7 at Shenandoah, VA, a distance of approximately 6.9 miles. The trackage rights became effective on May 16, 1988.

This notice is filed under 49 CFR 1180.2(d)(7).¹ Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry.*

¹ Since NW is controlled by Norfolk Southern Corporation and CW is a wholly-owned subsidiary of NW, the transaction would also qualify as an exempt transaction under 49 CFR 1180.2(d)(3) as a transaction within a corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: May 18, 1988.

By the Commission, Jane F. Mackall,
Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-12137 Filed 5-27-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-243)]

CSX Transportation, Inc.; Abandonment Between Thrifton and Midland City in Highland, Clinton and Ross Counties, OH; Findings

The Commission has issued a certificate authorizing CSX Transportation, Inc. to abandon its 29.49-mile rail line between Thrifton (milepost 74.45) and Midland City (milepost 44.96) in Highland, Clinton and Ross Counties, OH. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from the publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Noreta R. McGee,

Secretary.

[FR Doc. 88-12167 Filed 5-27-88; 8:45 am]

BILLING CODE 7035-01-M

[No. 40154 ¹]

Extension of Expiration Date of Master Tariff Increases; Amendments No. 5 and 12 to Special Tariff Authority

AGENCY: Interstate Commerce Commission.

¹ This proceeding was originally numbered Amendment No. 12 to Special Tariff Authority No. 80-1748 and Amendment No. 5 to Special Tariff Authority No. 84-8933. By decision served September 29, 1987 and published in the *Federal*

ACTION: Proposed procedures for incorporation of Master Tariff increases not adopted. Expiration dates of Master Tariff TEA 9000 and TCFB 9500 are extended to September 30, 1991, and reporting requirements imposed.

SUMMARY: By decision served August 27, 1987, and published in the *Federal Register* on August 28, 1987 (52 FR 32611), the Commission issued a notice of proposed procedures for incorporation of Master Tariff increases into basic tariffs. After consideration of the comments filed, the Commission has issued a decision not adopting the proposed procedures. Instead, the expiration dates of Master Tariffs TEA 9000 and TCFB 9500 are extended to September 31, 1991. As conditions in granting the extension, certain reporting requirements are imposed. Within 75 days from the service date of this decision, applicants shall submit a detailed plan and schedule for the completion of the updating process by September 30, 1991. Beginning September 30, 1988, applicant shall submit quarterly reports outlining the updating progress in relation to the plan and schedule.

DATES: The Commission decision is effective June 30, 1988.

FOR FURTHER INFORMATION CONTACT:

John Sado, (202) 275-6449.

III or

Joseph H. Dettmar, (202) 275-7245.

[TDD for hearing impaired (202) 275-1721].

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters.

This action will not have a significant impact on a substantial number of small entities.

This decision will not significantly affect either the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 10321 and 10762.

Decided: May 19, 1988.

Register on October 2, 1987 (52 FR 37030), it was redocketed as No. 40154 and the date for filing comments was extended 45 days.

By the Commission, Chairman Gradison,
Vice Chairman Andre, Commissioners
Sterrett, Simmons, and Lamboley.

Noreta R. McGee,
Secretary.

[FR Doc. 88-12079 Filed 5-27-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

The National Cooperative Research Act of 1984; The Industry/University Cooperative Research Center for Microwave/Millimeter-Wave Computer-Aided Design; Notification

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), the Industry/University Cooperative Research Center for Microwave/Millimeter-Wave Computer-Aided Design, located at the University of Colorado, Boulder, has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the parties to the venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the Industry/University Cooperative Research Center for Microwave/Millimeter-Wave Computer-Aided Design and its general areas of planned activities, are given below.

The parties to the Industry/University Cooperative Research Center for Microwave/Millimeter-Wave Computer-Aided Design are as follows:

Ball Aerospace Systems Division
Boeing Electronics High Technology Center
Hewlett-Packard
Hughes Microwave Products Division
ITT Corporation/GaAs Technology Center
National Bureau of Standards
Teledyne MMIC
Texas Instruments/Equipment Group
TRW/Electronic Systems Group
US Army LABCOR
Westinghouse/Defense Electronics Center

The objectives of the Industry/University Cooperative Research Center for Microwave/Millimeter-Wave Computer-Aided Design are as follows:

To establish a knowledge base for microwave/millimeter-wave integrated system design methodologies and CAD tools by conducting industrial-relevant research;

To increase the output of engineers in the United States who are equipped with modern engineering practices in the design of microwave/millimeter-wave systems;

To foster a strong collaboration among industry, university and government R&D organizations in microwave/millimeter-wave research.

John W. Clark,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 88-12050 Filed 5-27-88; 8:45 am]

BILLING CODE 4410-01-M

MERIT SYSTEMS PROTECTION BOARD

Temporary Closing of Headquarters Library

AGENCY: Merit Systems Protection Board.

ACTION: Notice that the Board is temporarily closing its library to the public.

SUMMARY: The Merit Systems Protection Board announces that its library will be closed to the public from Tuesday, May 31, 1988 through Friday, June 24, 1988.

EFFECTIVE DATE: May 31, 1988.

FOR FURTHER INFORMATION CONTACT: Michael H. Hoxie, Director, Information Services Division, Office of the Clerk of the Board, Merit Systems Protection Board, (202) 653-7200.

SUPPLEMENTARY INFORMATION: Due to renovation of the space, the Board's headquarters library will be closed to the public for the limited time indicated. The library will reopen for public use on a daily basis from the hours of 1 p.m. to 5 p.m. on Monday, June 27, 1988.

Date: May 25, 1988.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 88-12138 Filed 5-27-88; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of

information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted by June 30, 1988.

ADDRESSES: Send comments to Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3002, Washington, DC 20503 (202-395-7316). In addition, copies of such comments may be sent to Mr. Murray Welsh, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-682-5401).

FOR FURTHER INFORMATION CONTACT:

Mr. Murray Welsh, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202-682-5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests a review of the revision of a currently approved collection. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Revised Final Descriptive Report Form for State and Regional Arts Agencies.

Frequency of Collection: Annually.

Respondents: State or local governments; Non-profit institutions.

Use: Information is needed and will be used for monitoring of state and regional arts agency activities; coordination of Endowment activities with those of state and regional arts agencies; and reporting on the types of projects, groups, and localities benefiting from state and regional arts agency support.

Estimated Number of Respondents: 63.

Estimated Hours for Respondents to Provide Information: 252.

Murray R. Welsh,

Director, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 88-12127 Filed 5-27-88; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-42, and DPR-60, issued to Northern States Power Company (the licensee), for operation of the Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, located in Goodhue County, Minnesota.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would revise the Technical Specifications (TSs) to change the protective instrumentation setting for the automatic reactor trip associated with high flux, power range (low setpoint) from equal to or less than 25% of rated power to equal to or less than 40% of rated power. This instrumentation setting applies only for reactor startup protection.

The proposed action is in accordance with the licensee's application for amendment dated November 3, 1987.

The Need for the Proposed Action

The proposed change to the TSs is required to eliminate the potential of scrambling the reactor unnecessarily at low power levels (i.e., approximately 33%).

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the Technical Specifications. The proposed revision would change the high flux, power range (low setpoint) in Specification 2.3.A.1.b to read " * * * <40% of rated power" rather than " * * * <25% of rated power." This change would apply for low power operations. Since the evaluation demonstrates that the plant does not exceed the acceptable thermal limits, the proposed change does not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radio-logical environmental impact.

With regard to potential nonradiological impacts, the proposed change to the TSs involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the *Federal Register* on March 25, 1988 (53 FR 9832). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements related to the Prairie Island Nuclear Generating Plant dated May 1973.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated November 3, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Technology and Science Department, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 23rd day of May 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Acting Director, Project Directorate III-1
Division of Reactor Projects III, IV, V &
Special Projects.

[FR Doc. 88-12093 Filed 5-27-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on June 2-4, 1988, in Room 1046, 1717 H Street NW., Washington, DC. Notice of this meeting was published in the *Federal Register* on May 18, 1988.

Thursday, June 2, 1988

8:30 a.m.-8:45 a.m.: *Comments by ACRS Chairman* (Open)—The ACRS Chairman will report briefly regarding items of current interest.

8:45 a.m.-9:45 a.m.: *ECCS Evaluation Models* (Open/Closed)—Review analytical models proposed for Westinghouse PWR upper plenum injection systems for two-loop nuclear power plants.

Portions of this session will be closed as required to discuss Proprietary Information applicable to the models being proposed.

10:00 a.m.-11:00 a.m.: *Standardization of Nuclear Plants* (Open)—Briefing and discussion of proposed NRC rule regarding standardization of nuclear power plants.

11:00 a.m.-12:00 noon: *International Meetings Regarding Nuclear Power Programs* (Open/Closed)—Report of American Society for Quality Control, Planning Meeting for International Conference on Quality, held on May 10, 1988 and report on Regular Bilateral Meeting on Nuclear Regulatory Matters.

Portions of this session will be closed to discuss information provided in confidence by a foreign source.

1:00 p.m.-1:45 p.m.: *Emergency Planning* (Open)—Briefing regarding proposed final NRC rule on emergency preparedness in the vicinity of fuel cycle facilities and other radioactive material licenses and for low-power operations of nuclear power plants.

1:45 p.m.-2:30 p.m.: *Metallurgical Considerations* (Open)—Briefing and discussion regarding the quality of fasteners used in nuclear plants and periodic inspection of BWR reactor pressure vessels.

2:45 p.m.-4:15 p.m.: *Advanced Reactors* (Open)—Discuss proposed

ACRS report/recommendations regarding regulatory requirements for key design features of advanced gas-cooled and liquid-metal cooled nuclear power plants.

4:15 p.m.-6:00 p.m.: Babcock and Wilcox Nuclear Power Plants (Open)—Discuss proposed ACRS report on the safety reassessment of B&W nuclear power plants by the B&W Owners Group.

Friday, June 3, 1988

8:30 a.m.-10:15 a.m.: Prioritization of Generic Issues (Open)—Discussion and comment regarding the proposed prioritization of several new generic issues.

10:30 a.m.-11:30 a.m.: Reactor Operations (Open)—Briefing regarding proposed International Organization of Reactor Operators.

11:30 a.m.-12:00 noon: Future Activities (Open)—Discuss anticipated subcommittee activities and items proposed for consideration by the full Committee.

1:00 p.m.-2:30 p.m.: Systems Interactions (Open)—Briefing regarding the proposed resolution of USI A-17, "Systems Interactions in Nuclear Power Plants."

2:30 p.m.-3:00 p.m.: ACRS Subcommittee Activities (Open)—Briefing and discussion regarding the status of the PDA review for the Advanced Boiling Water Reactor.

3:15 p.m.-4:15 p.m.: Radioactive Effluents (Open)—Briefing and discussion regarding proposed changes in 10 CFR Part 20, "Standards for Protection Against Radiation."

4:15 p.m.-5:15 p.m.: Preparation of ACRS Reports (Open)—Discuss proposed ACRS reports on thermal-hydraulic phenomena research activities.

5:15 p.m.-5:45 p.m.: New Members (Closed)—Discuss status of appointment of proposed members and the qualifications of candidates being considered for nomination.

This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

5:45 p.m.-6:30 p.m.: ACRS Practices and Procedures (Open)—Discuss proposed cojoining of ACRS subcommittees and procedures regarding members' participation in meetings which are not sponsored by the ACRS.

Saturday, June 4, 1988

8:30 a.m.-12:30 p.m.: Preparation of ACRS Reports (Open)—Discuss proposed ACRS reports to NRC regarding items considered during this

meeting and the 337th ACRS meeting (May 5-7, 1988).

1:30 p.m.-2:30 p.m.: ACRS Subcommittee Activities (Open)—Reports and discussion of the status of assigned subcommittee activities including NRC regional activities, international meeting on operational safety experience, and bilateral meeting on significant operational events and consideration of severe accidents.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 2, 1987 (51 FR 37241). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), Proprietary Information applicable to the facility being discussed (5 U.S.C. 552b(c)(4)) and Privileged and classified information from a foreign source (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:15 a.m. and 5:00 p.m.

Date: May 25, 1988.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 88-12114 Filed 5-27-88; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-440]

Cleveland Electric Illuminating Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-58 issued to the Cleveland Electric Illuminating Company (CEI), the Duquesne Light Company, the Ohio Edison Company, the Pennsylvania Power Company, and the Toledo Edison Company (the licensees) for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio. The licensees' application for amendment was dated April 4, 1988.

The amendment would modify the Technical Specifications (TS) on page 1-7 and in section 6.6.1.a to clarify the definition of REPORTABLE EVENT making it consistent with the requirements of Generic Letter 83-43 dated December 19, 1983.

Another proposed change is a deletion of the organizational charts (Figures 6.2.1-1 and 6.2.2-1), and the addition of statements in section 6.2.1 to compensate for the organization chart deletions. These changes were submitted in response to guidance contained in Generic Letter 88-06 dated March 22, 1988. As such, these changes to delete organization charts are considered administrative.

An additional proposed change to the TS is to delete the exception to TS section 6.3.1 for the Senior Operations Coordinator as this exception is no longer required.

The proposed amendment would also modify TS 6.5.1.2, 6.5.1.3, and 6.5.1.5 to reduce the size and change the membership requirements for the Plant Operations Review Committee (PORC). The definition of QUORUM in TS 6.5.1.5 would also be changed to reflect the above changes. The proposed amendment would further modify TS 6.5.1.6.i and n and 6.5.3.1.f, deleting the requirement for the PORC to submit recommended changes to the Nuclear Safety Review Committee based upon PORC reviews of the Security Plan, Security Contingency Instructions,

Emergency Plan and implementing instructions, and Fire Protection Program and implementing procedures.

The proposed amendment would also move the requirements for temporary procedure changes from TS 6.5.3.1.a to a new section 6.8.3. The old section 6.8.3 has been renumbered to 6.8.4.

The proposed amendment would also delete various nonapplicable footnotes, correct typographical errors, reflect organizational title changes and clarify which systems are included in the leakage reduction program for primary coolant sources outside containment.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensees evaluated the proposed changes with respect to the above three factors, as follows:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes as described above are administrative and as such do not involve a significant increase in the probability or consequence of an accident previously evaluated. The only nonadministrative change is the reorganization of the PORC membership. The function of PORC remains largely the same; to provide advice to the Manager, Perry Plant Operations Department and others on matters relating to safety. By creating a PORC independent from these persons, the licensees argue that the PORC's ability to carry out its function should be enhanced. Therefore, the licensees believe that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The staff has reviewed the licensees' determination and agrees that such changes are primarily administrative in nature and would not involve a significant increase in the probability or consequences of an accident previously

evaluated. While the changes related to the size and composition of the PORC would result in a net decrease in experience and expertise of that body, they would not reduce these below the minimally acceptable levels approved for other new plants and should, therefore, not significantly affect that group's ability to carry out its review function. Therefore, these changes would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, most of the proposed changes are administrative changes which do not create the possibility of any new accident. The proposed changes to PORC memberships also cannot create the possibility of a new or different kind of accident since the overall function of PORC remains the same.

(3) The proposed changes do not involve a significant reduction in the margin of safety.

The majority of these changes are administrative in nature and, as such, do not involve a reduction in the margin of safety. The reorganization of PORC membership, it is argued by the licensees, would enhance safety by creating a truly independent review committee to advise the plant management. While the staff is unable to judge at this time whether in fact the proposed changes would enhance safety, the PORC is designed to function in the absence of some members, hence the quorum requirements of some minimum number of attendees less than the total membership. On this basis, the staff agrees that the proposed changes would not result in a significant reduction in a margin of safety. However, the staff will provide its determination on the acceptability of this change in its safety evaluation on this issue.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland, from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 30, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the

Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Kenneth E. Perkins: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 25th day of May 1988.

For the Nuclear Regulatory Commission,
Timothy G. Colburn,
*Project Manager, Project Directorate III-3,
Division of Reactor Projects—III, IV, V and
Special Projects.*

[FR Doc. 88-12202 Filed 5-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory

Commission (the Commission) has issued Amendment No. 91 to Facility Operating License No. DPR-6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications (TSs) for operation of the Big Rock Point Plant (the facility), located in Charlevoix County, Michigan. The amendment is effective as of the date of issuance.

This amendment revises the TSs to reflect the features and terminology used with new out-of-core power range instrumentation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings, as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 5, 1988 (53 FR 11150). No request for a hearing or petition for leave to intervene was filed following this notice.

Also in connection with this action, the Commission prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on May 13, 1988 (53 FR 17128).

For further details with respect to this action, see (1) the application for amendment dated November 9, 1987, (2) Amendment No. 91, to License No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the North Central Michigan College, 1515 Howard Street, Petosky, Michigan 49770. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 17 day of May 1988.

For the Nuclear Regulatory Commission,
Wayne E. Scott, Jr.,
*Project Manager, Project Directorate III-1,
Division of Reactor Projects—III, IV, V &
Special Projects.*

[FR Doc. 88-12091 Filed 5-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Materials License No. 42-26838-01; Docket No. 30-29319; ASLBP No. 88-575-01-CivP]

H & G Inspection Co., Inc.; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the *Federal Register*, 37 FR 28710 (1972) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, as presiding officer is designated in the following proceeding:

H & G Inspection Company, Inc.

Material License No. 42-26838-01

E.A 87-145

The presiding officer is being designated pursuant to the Licensee's request for a hearing regarding an Order issued by the Deputy Executive Director for Regional Operations, dated April 7, 1988, entitled "Order Imposing Civil Monetary Penalty."

The presiding officer in this proceeding is the Honorable Morton B. Margulies, Administrative Law Judge.

An Order designating the time and place of any hearing will be issued at a later date.

All correspondence, documents and other materials shall be filed with Judge Margulies in accordance with 10 CFR 2.701. His address is: Administrative Law Judge Morton B. Margulies, Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Robert M. Lazo,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

Issued at Bethesda, Maryland, this 24th day of May 1988.

[FR Doc. 88-12113 Filed 5-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-40, issued to Omaha Public Power District (the licensee), for the operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska.

The proposed amendment would delete Figure 5-1, "OPPD Support Staff" and Figure 5-2, "Fort Calhoun Station

Organizational Chart" from the Technical Specifications (TS). Additionally, organizational titles and job responsibilities would be revised to reflect organizational and administrative changes. The proposed amendment supersedes the previous request for amendment dated April 15, 1988.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards considerations. This amendment request is similar to the example of a purely administrative change to the Technical Specifications. This amendment request is also similar to the example that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. Based on the above, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will normally make a final determination unless it receives a request for a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this *Federal Register* notice.

By June 30, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by the proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of

Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceedings; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions should be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no

significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Jose A. Calvo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to LeBoeuff, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue NW., Washington, DC 20036, attorneys for the licensee.

Nontimely filings of the petition for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing

Board, that the request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Dated at Rockville, Maryland, this 24th day of May, 1988.

For the Nuclear Regulatory Commission.

Patrick D. Milano,

Project Manager, Project Directorate IV, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 88-12092 Filed 5-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271-OLA; ASLBP No. 87-547-02-LA]

Vermont Yankee Nuclear Power Corp., (Vermont Yankee Nuclear Power Station); Prehearing Status Conference

May 24, 1988.

Before Administrative Judges: Charles Bechhoefer, Chairman, Glenn O. Bright, Dr. James H. Carpenter.

Notice is hereby given that the Licensing Board will hold a prehearing conference for the purpose of ascertaining the status of this proceeding. The Applicant is requested to report at the conference, *inter alia*, its schedule for submitting additional application documents respecting the fuel pool cooling system. The NRC Staff is requested to report to the conference on its current proposed schedule for issuance of various Staff review documents. All parties are invited to provide suggestions for further activities in this proceeding, including possible settlement.

This status conference will be held at 9:30 a.m. on Tuesday, June 28, 1988, at the U.S. District Court, Post Office and Courthouse Building, 204 Main Street, Brattleboro, Vermont.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Administrative Judge.

[FR Doc. 88-12111 Filed 5-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271-OLA-2, (Testing Requirements for ECCS and SLC Systems); ASLBP No. 88-567-04-OLA]

Vermont Yankee Nuclear Power Corp., (Vermont Yankee Nuclear Power Station); Prehearing Conference

May 24, 1988.

Before Administrative Judges: Charles Bechhoefer, Chairman, Glenn O. Bright, Dr. James H. Carpenter.

Notice is hereby given that, in accordance with the Atomic Safety Licensing Board's Memorandum and Order dated May 24, 1988, a prehearing conference in this proceeding, involving a proposed change in technical specifications of the Vermont Yankee Nuclear Power Station operating license, will commence on Tuesday, June 28, 1988, immediately following the status conference notice today in the spent fuel pool operating license amendment proceeding, at the U.S. District Court, Post Office and Courthouse Building, 204 Main Street, Brattleboro, Vermont.

Among matters to be considered at the conference are the intervention petitions submitted by two petitioners for intervention; delineation of the key issues or contentions in the proceeding; the establishment of further schedules; possibilities of settlement of various issues; and such other matters as may aid in the orderly disposition of the proceeding.

In accordance with 10 CFR 2.715(a), the Board will hear oral limited appearance statements at the conclusion of this prehearing conference. Any person not a party to the proceeding or a petitioner for intervention will be permitted to make such a statement, either orally or in writing, setting forth his or her position on the issues. These statements do not constitute testimony or evidence in this proceeding, but may help the Board and/or parties in their deliberations on the extent of the issues to be considered. It is expected that oral limited appearance statements will not be heard until the afternoon of June 28, 1988 (commencing at 2:00 p.m. or later). The number of persons making oral statements and the time allotted for each statement may be limited depending on the number of persons present at the designated time. Written statements may be submitted at any time. Written statements, and requests for oral statements, should be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, One White Flint North, 11155 Rockville Pike, Rockville, Maryland 20852. A copy of such a statement or request should also

be served on the Chairman, Atomic Safety and Licensing Board.

Documents relating to this application are on file at the Local Public Document Room, located at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301, as well as at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

For the Atomic Safety and Licensing Board.
Charles Bechhoefer,
Administrative Judge.

Dated at Bethesda, Maryland, this 24th day of May, 1988.

[FR Doc. 88-12112 Filed 5-27-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co., Point Beach Nuclear Plant Unit Nos. 1 and 2; Exemption

I

The Wisconsin Electric Power Company (WEPCO, the licensee) is the holder of Facility Operating License Nos. DPR-24 and DPR-27, which authorize operation of the Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities), at a steady state power level not to exceed 1518 megawatts thermal per unit. The facilities are pressurized water reactors located in Manitowoc County, Wisconsin. These licenses provide, among other things, that the facilities are subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised § 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant.

One of the subsections, III.G, is the subject of the licensee's exemption request. Specifically, Subsection III.G, Part 3.b requires in part the installation of a fixed fire suppression system in plant areas in which redundant trains of systems required for hot shutdown are located.

III

By letter dated June 11, 1986, supplemented by letter dated October 10, 1986, the licensee submitted a

request for exemption from the requirements of Section III.G.3 of Appendix R to 10 CFR Part 50 for the Component Cooling Water Heat Exchanger and Boric Acid Tank Room (Fire Zone 237), and the Computer and Instrument Rack Room (Fire Zone 336). The implementation of TMI-related modifications required the rerouting of several redundant safe shutdown instrument cables from the monitor tank area through the Component Cooling Water Heat Exchanger and Boric Acid Tank Room (Fire Zone 237), and the Computer and Instrument Rack Room (Fire Zone 336) to the Control Room. Neither Fire Zone 237 nor Fire Zone 336 has a fixed fire suppression system. This installation is not in compliance with 10 CFR Part 50, Appendix R, Section III.G.3.b, which requires a fixed fire suppression system in areas through which redundant trains of systems required for hot shutdown pass.

The underlying purpose of the rule is to maintain the capability of redundant trains located in the same area, to bring the plants to hot shutdown in the event of a fire in the area, by assuring prompt extinguishing of the fire by the fixed fire suppression system. The licensee has stated that even though Fire Zones 237 and 336 do not have fixed fire suppression systems installed, each fire zone is provided with numerous smoke detectors suitably located within the fire zone to detect fires, and each fire zone is in close proximity to hose reel stations for fire extinguishing. Additionally, the licensee has stated that should the redundant instrument cables transversing these fire zones be destroyed by fire, alternate shutdown capability independent of these fire zones is available.

Section 10 CFR 50.12(a) requires that special circumstances be present before the Commission will consider granting an exemption. Special circumstances were identified by the licensee in its October 10, 1986 letter. Specifically, the licensee stated that application of the regulation would not serve the underlying purpose of the rule. The underlying purpose of the rule is to maintain the capability of redundant trains located in the same area, to bring the plants to hot shutdown in the event of a fire in the same area, by assuring prompt extinguishing of the fire by the fixed fire suppression system. Although fixed fire suppression is not installed in the areas of concern, the licensee has stated that in the event the cables are destroyed by fire, other means, independent of these areas, can be used to shut down the plant. Section 4.3.2 of the licensee's October 26, 1983 letter describes how this alternate shutdown

capability is achieved. Specifically, transfer switches were installed to transfer indication of plant parameters from the control room to the charging pump and auxiliary feed pump areas. Therefore, if a fire destroyed the safe shutdown cables in the zones which are the subject of this exemption, indication can be transferred to alternate areas. In addition to this alternate shutdown capability, the fire zones in question are equipped with various fire protection systems. Fire Zone 237 is provided with six photoelectric smoke detectors. Two 1½-inch hose reel stations are located outside the fire zone near the west wall entrances. Additionally, portable fire extinguishers suitable for the hazards present in the fire zone are available. Fire Zone 336 is provided with eight photoelectric smoke detectors. Hose reel stations are located at the foot of the stairway on the 46-foot elevation for manual fire suppression capability. Additionally, portable fire extinguishers suitable for the hazards present in the fire zone are available. For these reasons, the staff concludes that the existing alternate shutdown capability and fire protection systems provide reasonable assurance that a fire in Fire Zones 237 and 336 will not prevent safe shutdown of the plant. Therefore, application of the regulation does not serve the underlying purpose of the rule.

Based on the above, the staff concludes that the existing fire protection features, together with the alternate shutdown capability available for Fire Zones 237 and 336, provide a level of fire protection equivalent to the requirements of Section III.G.3.b of Appendix R to 10 CFR Part 50.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that: (1) The exemption as described in Section III is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security; and (2) special circumstances are present for the exemption in that application of the regulation in this particular circumstance is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. Therefore, the Commission grants the exemption from the requirements of Section III.G.3.b of Appendix R to 10 CFR Part 50 to the extent discussed in Section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (53 FR 11923, April 11, 1988).

This Exemption is effective upon issuance.

For The Nuclear Regulatory Commission.
Dennis M. Crutchfield,
*Director, Division of Reactor Projects—III, IV,
 V and Special Projects, Office of Nuclear
 Reactor Regulation.*

Dated at Rockville, Maryland, this 23rd day
 of May, 1988.

[FR Doc. 88-12094 Filed 5-27-88; 8:45 am]

BILLING CODE 7590-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

AGENCY: Pennsylvania Avenue
 Development Corporation.

ACTION: Notice of meeting.

SUMMARY: The Pennsylvania Avenue
 Development Corporation announces a
 forthcoming meeting of the Board of
 Directors.

DATE: The meeting will be held
 Wednesday, June 15, 1988, at 10:00 a.m..

ADDRESS: The meeting will be held at
 the Pennsylvania Avenue Development
 Corporation's Conference Room, 1331
 Pennsylvania Avenue NW., Suite 1220
 North Building, Washington, DC.

SUPPLEMENTARY INFORMATION: This
 meeting is held in accordance with 36
 CFR Part 901, and is open to the public.

Date: May 23, 1988.

M.J. Brodie,
Executive Director.

[FR Doc. 88-12059 Filed 5-27-88; 8:45 am]

BILLING CODE 7630-01-M

POSTAL RATE COMMISSION

[Docket No. A88-2; Order No. 786]

**Rago, Kansas 67128 (Philip W. Unruh,
 Petitioner); Notice and Order
 Accepting Appeal and Establishing
 Procedural Schedule Under 39 U.S.C.
 404(b)(5)**

Issued: May 23, 1988.

Before Commissioners: Janet D. Steiger,
 Chairman; Patti Birge Tyson, Vice-Chairman;
 John W. Crutcher; Henry R. Folsom; W.H.
 "Trey" LeBlanc III.

Docket Number: A88-2.

Name of Affected Post Office: Rago,
 Kansas 67128.

Name(s) of Petitioner(s): Philip W.
 Unruh.

Type of Determination: Closing.

Date of Filing of Appeal Papers: May
 16, 1988.

*Categories of Issues Apparently
 Raised:*

1. Effect on postal services (39 U.S.C.
 404(b)(2)(C)).

Other legal issues may be disclosed
 by the record when it is filed; or,
 conversely, the determination made by
 the Postal Service may be found to
 dispose of one of more of these issues.

In the interest of expedition, in light of
 the 120-day decision schedule (39 U.S.C.
 404(b)(5)), the Commission reserves the
 right to request of the Postal Service
 memoranda of law on any appropriate
 issue. If requested, such memoranda will
 be due 20 days from the issuance of the
 request; a copy shall be served on the
 petitioners. In a brief or motion to
 dismiss or affirm, the Postal Service may
 incorporate by reference any such
 memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be
 filed on or before May 31, 1988.

(B) The Secretary shall publish this
 Notice and Order and Procedural
 Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,
Secretary.

Appendix

May 16, 1988—Filing of Petition

May 23, 1988—Notice and Order of
 Filing of Appeal

June 10, 1988—Last day of filing of
 petitions to intervene [see 39 CFR
 3001.111(b)]

June 20, 1988—Petitioners' Participant
 Statement or Initial Brief [see 39 CFR
 3001.115 (a) and (b)]

June 30, 1988—Postal Service Answering
 Brief [see 39 CFR 3001.115(c)]

July 15, 1988—Petitioners' Reply Brief
 should petitioners choose to file one
 [see 39 CFR 3001.115(d)]

July 22, 1988—Deadline for motions by
 any party requesting oral argument. The
 Commission will schedule oral argument
 only when it is a necessary addition to
 the written filings [see 39 CFR 3001.116]

September 12, 1988—Expiration of
 120-day decisional schedule [see 39
 U.S.C. 404(b)(5)]

[FR Doc. 88-12053 Filed 5-27-88; 8:45 am]

BILLING CODE 1715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25733; File No. SR-Amex-
 87-31]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

On December 18, 1987 the American

Stock Exchange, Inc. ("Amex"),
 submitted to the Securities and
 Exchange Commission ("Commission"),
 pursuant to section 19(b)(1) of the
 Securities Exchange Act of 1934
 ("Act")¹ and Rule 19b-4 thereunder,² a
 proposed rule change seeking
 permanent approval of a pilot program
 which authorized specialists to accept
 market-at-the-close ("MOC") orders and
 to report executions of certain MOC
 orders as stopped stock transactions.

In June 1987, the Commission
 approved a six-month pilot program to
 permit Amex specialists to accept MOC
 orders,³ and in February 1988, the
 Commission extended the pilot for 120
 days.⁴ The pilot also permitted
 specialists to execute "stopped
 stock"⁵ transactions in those stocks
 which are included in a stock index on
 the last business day prior to options
 and futures contracts' expiration. Amex
 Rule 109(d) specifically provides that
 when the aggregate volume of MOC buy
 and MOC sell orders is equal, such
 orders may be stopped against each
 other and executed at the last sale price
 on the Exchange just prior to the close of
 trading. Where there is an imbalance of
 shares to buy (sell) over shares to sell
 (buy) in MOC orders, the imbalance
 may be executed, at the close of trading,
 against the prevailing offer (bid) just
 prior to the close. The member then may
 stop the remaining buy and sell orders
 against each other and pair them off at
 the price at which the imbalance was
 executed. By reporting paired-off trades
 as "stopped stock" transactions, the
 specialist will be able to alert limit order
 customers that stopped market orders
 holding priority over their limit orders
 have been executed in the market.⁶

The Amex states that the proposed
 rule change is designed to improve the
 efficient execution of orders during
 periods of high volume since floor
 brokers would no longer be required to
 remain in the trading crowd during one
 of the busiest times of the day to
 represent MOC orders. In addition, the
 Amex notes that it is not aware of any

¹ 15 U.S.C. 78a(b)(1) (1982).

² 17 CFR 240.19b-4 (1986).

³ See Securities Exchange Act Release No. 24616
 (June 19, 1987) 52 FR 23909. A market-at-the-close
 order is a market order which is to be executed at or
 as near to the close as practicable. See Amex Rule
 131.

⁴ See Securities Exchange Act Release No. 25141
 (February 9, 1988) 53 FR 4491.

⁵ A "stopped stock" transaction is one in which a
 floor broker or specialist pairs-off buy and sell
 market-at-the-close orders when holding those
 orders simultaneously in the same stock.

⁶ The New York Stock Exchange ("NYSE") has a
 comparable rule, NYSE Rule 116.40.

problems associated with the use of these procedures during the pilot program. In this regard, the Amex noted that since June 1987 there only have been two instances, both involving Lorimar Telepictures stock, when transactions were reported to the tape at the close as stopped stock.⁷ Furthermore, since the proposed rule requires the reporting of paired-off trades as "stopped stock" transactions, customers with limit orders are informed that these transactions were executed outside of the regular auction market and that, therefore, their orders may not have participated.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and the rules and regulations thereunder. More specifically, the rule will contribute to the more efficient execution of MOC orders, especially during periods of high volume, by relegating the responsibility of executing such orders to Amex specialists. Since floor brokers would no longer be required to remain in the trading crowd during one of the busier times of the day to represent such orders they would be provided the opportunity to execute transactions in other securities, thereby yielding increased market depth and liquidity. Furthermore, requiring paired-off MOC transactions to be reported as "stopped stock" informs customers with limit orders on the book that market orders with priority have been executed, thereby fostering cooperation and coordination between persons engaged in regulating and facilitating transactions in securities.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change referenced above be, and hereby is, approved.

⁷ See Letter from Mike Cavalier, Assistant General Counsel, Amex, to Joseph Furey, Branch Chief, Options Regulation, Division of Market Regulation, SEC, dated May 4, 1988. During the December 18, 1987 Expiration, the Lorimar specialist, faced with a buy imbalance, executed 10,700 shares at the offer and then printed 1,500 shares at the same price as stopped stock. Similarly, during the March 18, 1988 Expiration, the Lorimar specialist, once again faced with a buy imbalance at the close, executed 3,500 shares at the offer and then printed 3,300 shares at the same price as stopped stock.

⁸ 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,
Secretary.

Dated: May 20, 1988.

[FR Doc. 88-12084 Filed 5-27-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25740; File No. 600-23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Temporary Registration as a Clearing Agency

On October 16, 1987, the Government Securities Clearing Corporation ("GSCC") filed an application under section 19(a) of the Securities Exchange Act of 1934 ("Act")¹, for registration as a clearing agency under section 17A of the Act² and Rule 17Ab2-1(c)³ thereunder. That rule authorizes the Commission to grant registration, for a period of 18 months (or for such longer period as the Commission determines), while exempting GSCC from complying with one or more of the statutory standards contained in section 17A(b)(3) of the Act. Notice of the application appeared in the Federal Register on November 20, 1987.⁴ No comments were received. This order grants GSCC's application for registration as a clearing agency for a period not to exceed 36 months and exempts GSCC from certain provisions of sections 17A(b)(3) and 17A(b)(4) of the Act.

I. Overview

GSCC was incorporated by the National Securities Clearing Corporation ("NSCC")⁵ under the New York Business Corporation Law on November 18, 1986, to provide clearing facilities for transactions in securities issued or guaranteed by the United States, U.S. Government agencies and instrumentalities, and U.S. government-sponsored corporations ("Government Securities"). GSCC is a wholly-owned subsidiary of NSCC. GSCC, however, is in the middle of a private placement of common stock to eligible participants. Upon conclusion of GSCC's initial distribution of common stock, GSCC

will be jointly owned by NSCC and GSCC participants.⁶

GSCC is testing its comparison and netting facilities for transactions in Government Securities (except mortgage-backed securities), including zero coupon bonds, and when-issued trading in U.S. Treasury securities.⁷ Once registered, GSCC plans to offer comparison services for next-day settling trades in the Government Securities market.⁸

II. Statutory Standards

Section 17A of the Act sets forth registration requirements for a clearing agency. Section 17A of the Act directs the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions ("National System"). That Section charges the Commission to act in accordance with specific Congressional findings with due regard for: The public interest; the protection of investors; the safeguarding of securities and funds; and maintenance of fair competition among brokers, dealers, clearing agencies, and transfer agents.⁹ In addition, section 19 of the Act provides procedural standards for clearing agency registration and for continuing regulatory oversight of registered clearing agencies. Rule 17Ab2-1(c) provides for temporary clearing agency registration, for a period of 18 months or for such longer period as the Commission may order, without specifically finding that the temporarily

⁶ GSCC plans to conclude the initial sale of stock shortly. The initial distribution will provide GSCC with a minimum of \$5 million of working capital.

⁷ Zero coupon bonds are derived by stripping the interest coupons from a bond and creating a separate security out of each coupon. The payment of face value of the bond at maturity is also sold as a separate security. STRIPS denotes Separate Trading of Registered Interest and Principal of Securities and are generic book-entry Treasury zero coupon bonds.

⁸ After the comparison pilot, GSCC plans to offer netting and balance order trade accounting services (i.e., issuance of receive and delivery instructions to members concerning trades submitted to GSCC's accounting system for settlement through the FedWire of the Federal Reserve System ("FedWire Service")). Before implementation of those services, GSCC must file under section 19(b) of the Act for Commission review of the rules and procedures implementing those services.

⁹ A "clearing agency" is defined in section 3(a)(23) of the Act to include, among other things, any person who facilitates the reduction or allocation of securities settlement responsibilities and any securities depository that acts as a securities custodian for central handling of securities that are treated as fungible and can be transferred by bookkeeping entry. For the purpose of section 17A and clearing agency registration, the term "security" includes U.S. government and U.S. government agency securities.

¹ 17 CFR 200.30-3(a)(12) (1986).

² 15 U.S.C. 78s(a).

³ 15 U.S.C. 78q-1.

⁴ 17 CFR 240.17Ab2-1(c).

⁵ Securities Exchange Act Release No. 25129 (November 16, 1987), 52 FR 44659.

⁶ NSCC is registered with the Commission as a clearing agency. See Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 5167 ("Full Registration Order").

registered clearing agency has met the statutory standards.

The Commission has published the Division of Market Regulation's ("Division") clearing agency registration standards ("Standards"),¹⁰ which illustrate specific objectives that a clearing agency's rules, procedures, or systems should achieve to be granted full registration. The Standards provide additional information concerning the Division's interpretation of subparagraphs (A) through (I) of section 17A(b)(3) and also discuss the Division's views on the National System. Specific references to the Standards appear below in applicable sections of the Commission's discussion.¹¹

As indicated above, GSCC has filed an application for temporary registration for a period not to exceed 36 months. Rule 17Ab2-1(c) provides that the Commission may grant a clearing agency temporary registration and exempt the registrant from one or more of the requirements under subparagraphs (A)-(I) of section 17A(b)(3). Thus, an applicant clearing agency can commence operations, and the Commission can assess those operations and related safeguards during the temporary registration period to determine whether registration should be continued. On or before the end of the thirty-six month period, the Commission will either grant registration without exemptions from statutory standards or consider whether such exemptions, as the applicant may request, are appropriate under the Act. During the temporary registration period, the applicant is, for all purposes under the Act, a registered clearing agency.¹²

III. Discussion

A. Scope of the Order

This Order concerns the temporary registration of GSCC as a clearing agency under section 17A of the Act for

a period not to exceed 36 months and GSCC's proposal to provide comparison services in Government Securities. Although the Commission understands GSCC plans to offer trade accounting and netting services for member trades in Government Securities, those services are not described in GSCC's application for registration and are beyond the scope of this order. The determinations made in this order reflect review of GSCC's application for registration, as amended, including its by-laws, rules and comparison service operating procedures as filed in Form CA-1 on October 16, 1987, and subsequently amended on March 11, 1988.

GSCC expects to expand both its participant base and its operations during the next three years. During that time, the Commission will monitor and oversee GSCC operations through review of Rule 19b-4 submissions,¹³ notices to members¹⁴ and disciplinary filings.¹⁵ Before expiration of GSCC's temporary registration, the Commission also will review the determinations enunciated today and consider whether: (1) To exempt GSCC from complying with one or more of the statutory standards; and (2) to grant GSCC permanent registration as a clearing agency.

B. Capacity To Promote Prompt and Accurate Clearance and Settlement and to Safeguard Funds and Securities

Sections 17A(b)(3)(A) and (F) of the Act require that a clearing agency be organized and that its rules be designed to promote prompt and accurate clearance and settlement of securities for which it is responsible and to safeguard funds and securities in its custody or control or for which it is responsible. The Standards require clearing agencies, such as GSCC, that hire facilities managers to perform data or other processing functions to maintain appropriate safeguards to insure the prompt and accurate clearance and settlement of securities transactions. The standards also require such clearing agencies to assure that their facility managers will cooperate fully with clearing agency auditors, Commission examiners, independent

public accountants, and any other appropriate regulatory agency, to the same extent as a clearing agency which conducts its own processing functions.¹⁶

As discussed below, the Commission believes that GSCC meets the requirements of sections 17A(b)(3)(A) and (F) of the Act. The Government Securities market, one of the world's largest securities markets, lacks a centralized, automated clearance system. GSCC's trade comparison service represents a significant step toward building a centralized, automated inter-dealer clearance system for Government Securities. GSCC has a facilities management agreement with NSCC that appears to provide GSCC with the necessary administrative and technical services (including data processing) to operate its trade comparison service. Moreover, GSCC has established adequate facilities and controls to protect its participants against financial losses associated with its proposed comparison service. Finally, GSCC has conducted numerous tests to insure that its system has the capability to provide prompt and accurate trade comparison service.

1. Government Securities Market

Outstanding Government Securities issues exceed \$2.5 trillion in principal amount. Approximately 66% are U.S. Treasury securities, 22% are mortgage-backed securities¹⁷ and 12% are government agency securities.¹⁸ U.S. Treasury securities are auctioned to the public through the Federal Reserve System, which serves as the U.S. Treasury Department's fiscal agent. Although investors may submit bids directly at auctions, the majority of U.S. Treasury securities initially are purchased by banks and securities firms operating as Government Securities dealers. Dealers purchase for their own account, on behalf of their customers and for resale to other investors in the secondary market.

In 1987, the value of average daily trading in U.S. Treasury securities among dealers, inter-dealer brokers and investors was approximately \$110

¹⁰ Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 ("Standards Release").

¹¹ The Commission notes that the Standards were developed in the context of registration of 10 clearing agencies engaged primarily in clearing domestic corporate debt and equity securities and, to a lesser extent, municipal securities. The Commission recognizes that some of the Standards may not be appropriate for clearing agencies that provide services for other investment products such as Government securities. Accordingly, the Commission intends to apply the Standards flexibly and on a case-by-case basis. In addition, the Standards allow clearing agencies to submit reasons why a particular Standard may be inappropriate and to suggest alternatives that are consistent with the Act.

¹² Thus, for example, the applicant must file for review all changes to its by-laws, rules and procedures with the Commission under section 19 of the Act.

¹³ Rule 19b-4 requires proposed rule changes (including changes in rules, services, or procedures) by a self-regulatory organization (including clearing agencies) to be filed with the Commission for review pursuant to section 19(b) of the Act.

¹⁴ Rule 17a-22 requires a registered clearing agency to file with the Commission, within ten days of release, three copies of any material, including manuals, notices, circulars, bulletins, lists or periodicals, issued or made generally available to its participants or to other entities with whom it has a significant relationship.

¹⁵ See section 19(d) of the Act.

¹⁶ See Standards Release, *supra* note 10.

¹⁷ GSCC has not sought authority to provide clearing agency functions for mortgage-backed securities. For a discussion of mortgage-backed securities, see MBS Clearing Corporation's temporary registration order, Securities Exchange Act Release No. 24046 (February 2, 1987) at 12, 52 FR 4218, 4220.

¹⁸ Agency securities are debt obligations of government-sponsored enterprises, which include the Federal Home Loan Banks, the Student Loan Marketing Association and the Federal Credit System. These agencies typically issue securities through groups of dealers who locate purchasers.

billion.¹⁹ Dealers and brokers play a major role in providing liquidity to the secondary market. Dealers provide investors a price at which they can immediately buy or sell securities. Brokers enhance liquidity by enabling dealers and investor customers to trade large quantities of securities quickly and anonymously.²⁰ Pursuant to the Government Securities Act of 1986, all Government Securities brokers and dealers are subject to registration, examination and financial regulatory requirements.²¹

There are three types of Government Securities dealers: Primary, aspiring primary and nonprimary.²² Primary dealers voluntarily agree to report their positions to the FRBNY and to buy from or sell securities to the FRBNY, among other things, in connection with FRBNY's (as U.S. fiscal agent) open market transactions.²³ To become a primary dealer, a dealer must agree to meet certain standards and to provide FRBNY the necessary information to monitor compliance with the standards.²⁴ Aspiring primary dealers

are firms attempting to demonstrate their capital resources, trading activities, operational experience and other qualifications to FRBNY in order to become a primary dealer.²⁵ These firms also regularly provide position and financial information to the FRBNY. Any Government Securities dealer that is neither a primary or an aspiring primary dealer is considered a nonprimary dealer.

Government securities generally are settled the day after trade execution in same-day funds. Inter-dealer trades (including trades between brokers and dealers) are usually settled through clearing agent banks over the automated telecommunication ("FedWire") and book-entry custody systems maintained by FRBNY.²⁶ Virtually all transfers are effected solely by bookkeeping entries over the FedWire.

The Government Securities market currently operates under decentralized, inefficient physical procedures for comparing and clearing transactions among brokers and dealers. On the morning after trade date (settlement day), Government Securities brokers and dealers attempt to match each trade for settlement (usually after 1:00 p.m.). Brokers and dealers must attempt to match each side of a trade, resolve any discrepancies that result in an uncompleted trade, and send delivery and receive instructions to their clearing agents, all within five to six hours. During this time, inter-dealer brokers and primary dealers also attempt to "pair-off," on a bilateral basis, trades in each issue to reduce daily delivery and

payment obligations. That process entails identifying purchases and sales with another trading party that can cancel or offset delivery and payment obligations between the same trading parties, agreeing to cancel specific trades and paying the differences. Clearing agent banks must then coordinate the delivery and receipt of funds and securities through the FedWire system.

The current confirmation and trade comparison process is decentralized and may contribute to uncompleted trades and increased credit risks in settling Government Securities transactions. Growth in daily trading volume and outstanding U.S. Treasury securities have increased concerns with the operational aspects of clearing and settling Government Securities trades.²⁷ Indeed, the Commission understands Government Securities dealers and brokers frequently may deliver or pay for securities assuming that if the other party pays for securities or delivers securities for payment, then the trade actually occurred.

2. GSCC's Trade Comparison Service

As noted above, GSCC initially plans to offer Government Securities dealers and brokers a centralized, automated comparison service for transactions in U.S. Treasury securities.²⁸ The Commission believes that GSCC's formation and its planned services represent a significant step toward reducing the labor-intensive comparison process for Government Securities. The automated comparison system will eliminate the need to manually match trades and allow brokers and dealers to concentrate on the pair-off and reconciliation processes, as well as resolving uncompleted trades. Automating comparison may permit brokers and dealers to submit delivery and payment instructions to clearing agent banks earlier in the day, thereby

¹⁹ Telephone conversation between Commission staff and Federal Reserve Bank of New York ("FRBNY") staff.

²⁰ Brokers arrange trades without revealing the identities of the buyer and seller to one another. There are two types of brokers: Inter-dealer brokers and retail brokers. Inter-dealer brokers only trade among primary and aspiring primary dealers, only allow primary and aspiring primary dealers access to certain trade information and claim to act only as agents for their customers. Retail brokers trade among all market participants, allow all customers access to trade information shown on the broker screen and, in effect, guarantee all their trades. See U.S. General Accounting Office ("GAO"), U.S. Government Securities: An Examination of Views Expressed About Access to Broker's Services, GAO/GGD-88-8 [GAO Report].

²¹ See Pub. L. 99-571. The law, among other things, authorizes and directs the Secretary of the Treasury to issue financial responsibility, recordkeeping, and financial reporting and audit rules. The Secretary also must regulate the possession and control of customer securities and funds. The law requires clearing agencies that provide centralized clearance and settlement services in Government Securities to register with the Commission under section 17A of the Act and requires dealers and brokers that were previously unregulated to register with the Commission and to join either an exchange or a registered securities association.

The Department of the Treasury has issued financial responsibility rules, including minimum net capital requirements, for Government Securities dealers and brokers that are not subject to the Commission's net capital rule. See 52 FR 27910 (July 24, 1987).

²² For a more comprehensive discussion of the types of dealers and their functions, see GAO Report, *supra* note 20.

²³ Through the open market operation, the Federal Reserve System injects or withdraws money from the economy by entering into agreements with primary dealers to buy or sell securities either outright or through so-called repurchase and reverse repurchase transactions.

²⁴ A primary dealer must adhere to the following requirements: Actively engage in the distribution of

U.S. Treasury securities to investors (this includes continuously bidding at Treasury auctions); demonstrate a willingness to make markets at all times in a full range of securities and have an adequate customer base and trading volume; have capable management of proven reputation and character; have sufficient business capacity, trained personnel, managerial controls, and expertise in trading and risk management; have an adequate capital base relative to the risks taken in fulfilling its market making responsibilities; and show a long term commitment to devoting sufficient capital and other resources to the market. See GAO Report, *supra* note 20.

²⁵ The qualification process typically takes at least one year from the time the dealer begins providing FRBNY with information. See GAO Report, *supra* note 20, at 15.

²⁶ Currently, the transfer or pledge of book-entry U.S. Treasury securities through the FedWire has the effect of a delivery in bearer form of such securities. See 31 CFR 306.115-306.122 (Subpart O) and 31 CFR 350.4. The Bureau of Public Debt, Fiscal Service, has published a proposal which, upon final adoption, would govern all book-entry marketable U.S. Treasury Securities. The proposal would preempt state law, including the Uniform Commercial Code, with regard to the transfer or pledge of U.S. Treasury securities through the FedWire and amend 31 CFR Part 357. See Department of the Treasury Circular, Public Debt Series, No. 2-86, 51 FR 43027.

²⁷ The national debt has grown from approximately \$1.3 trillion in 1983 to approximately \$2.5 trillion at the end of 1987. Average daily trading volume in U.S. Treasury Securities has more than doubled since 1983. The 1983 average daily trading volume was approximately \$42 billion and the 1987 average daily trading volume was approximately \$110 billion. This growth in trading activity has caused a commensurate rise in volume on the FedWire. In part to accommodate the increased volume of deliveries, particularly at the end of the day, FedWire operating hours have routinely been extended.

²⁸ Under GSCC's proposed comparison procedures, GSCC will accept trade data from participants until 10 p.m. each day. GSCC will then compare the trade data submissions and, at approximately 8:00 a.m., make available to participants reports of compared, uncompleted and advisory trades.

reducing late-day FedWire deliveries. Moreover, automated centralized comparison may help dealers and brokers to identify uncompleted trades and resolve those trades before the afternoon settlement period. Overall, centralized automated comparison may help brokers and dealers obtain a better handle on operational aspects and financial risks involved in settling Government Securities transactions.²⁹

3. Facilities Management

GSCC has a facilities management arrangement with NSCC, a registered clearing agency and a substantial shareholder of GSCC. Under the NSCC-GSCC agreement, NSCC provides administrative and technical services. Those services include operation of GSCC's comparison system and data processing, financial, support, internal auditing, compliance and legal services.

NSCC has in the past been a responsible clearing agency.³⁰ NSCC provides comprehensive clearing services to the New York Stock Exchange, American Stock Exchange and over-the-counter markets for corporate equity and debt securities and to the municipal securities market. As a registered clearing agency, NSCC is subject to Commission oversight under the Act, which includes periodic Commission examinations and annual independent accountant review of internal accounting controls.

4. Recordkeeping and Data Processing

The Commission believes that the systems and other controls surrounding GSCC's recordkeeping and data processing functions are adequate to meet the needs of the expanding Government Securities market. In providing the comparison service, GSCC will collect standardized trade data from GSCC members concerning trades with other GSCC members, and compare that data to determine whether the two parties to a trade submitted identical information. If the information matches, then the trade is considered compared. GSCC will notify participants of all compared trades and of unmatched trade data. If the information does not match, participants must resolve the reported differences among themselves.

NSCC's internal audit department, on behalf of GSCC, reviews the adequacy

of GSCC's systems and controls. The Audit Committee of GSCC's Board of Directors are composed of non-management directors. The Audit Committee oversees internal audit programs implemented by internal or NSCC auditors, makes a recommendation to the GSCC Board of Directors concerning the selection of GSCC's independent public accountant and reviews the system of internal accounting controls with the independent public accountant. Under GSCC's rules, the independent public accountant performs annually an evaluation of GSCC internal accounting controls, and GSCC must make the accountant's opinion and report available to all participants.

NSCC, through the Securities Industry Automation Corporation ("SIAC"), provides GSCC with redundant computer hardware and software and also provides backup computer capability. GSCC duplicates all incoming data daily and stores them at off-site locations, which enables GSCC to reconstruct quickly its data base in the event of a disaster.³¹ GSCC's computer center is operated by SIAC and is equipped with an independent source of power, air conditioning and water to assure a continuous processing environment.

5. Financial Risk Management

The Commission believes that GSCC's rules are adequately designed to protect GSCC and its participants against financial losses associated with its services. GSCC does not interpose itself between two parties to a trade and, at this time, does not provide trade accounting, netting functions or payment and delivery facilities. GSCC reports to participants all matched and unmatched trades. Moreover, participants have a duty to check the matched trades for accuracy, and participants are still responsible for the settlement function through their respective clearing agent banks. Thus, GSCC does not assume any liability for member settlement defaults or member losses associated with those defaults.

Although financial risks to GSCC and its participants are minimized by GSCC's limited role as a central comparison facility, failure to perform

that function accurately or in a timely manner could affect adversely GSCC's members' ability to settle securities transactions. GSCC copies all member trade data submissions when received, to permit GSCC to perform the comparison function at another location. In the unlikely event that data were destroyed or GSCC was unable to perform its comparison service, participants, although inconvenienced, could physically compare tickets, as they now do.

6. System Service Capacity

Because of the volume of daily trading activity, the short time frame within which trades must be settled, and the importance of the market for U.S. Treasury securities, the Commission sought assurances that GSCC will perform its functions accurately and on a timely basis under severe market and operational conditions. GSCC and its facilities manager have represented they would be able to meet anticipated market volume peaks, similar to those in October 1987.³² In addition, GSCC has assured the Commission that, even during a period of unusually high volume, GSCC has the computer and communication capability to receive data from participants, process that data and send processed data to participants within the time frame established by GSCC.

GSCC has successfully tested its comparison system for more than a year.³³ Based on those tests, GSCC expects 90% or more of the trades to match successfully through the automated comparison system. GSCC estimates that its system has the capacity to compare up to 400,000 trades per day. GSCC has tested its operating systems to ensure it can accommodate 50,000 trade sides and 256

³² See letter from Robert A. Schultz, Senior Vice President, NSCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation (March 3, 1988) and from Frederick B. Roemer, First Vice President, GSCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation (March 3, 1988), File No. 800-23.

³³ In addition, GSCC twice has tested its netting system successfully. The first netting test was conducted in December 1986 and covered one week's brokered trade data for U.S. Treasury bonds, bills and notes. The test produced a "netting factor" (the percentage of trades that are netted out before settlement or before receive and delivery tickets are produced) of 81% for 51 dealer and 7 broker participants in the test. The second test was conducted in May, 1987 and covered trading in when-issued government securities and secondary trading in Treasury STRIPS and government agency securities (except mortgage-backed securities). The second test produced a netting factor of 82% for regular way trading and 99% for actively-traded when-issued securities for the full month's transactions for 51 dealers and brokers.

²⁹ GSCC has had numerous conversations with FRBNY's operations officials regarding the operational aspects of its comparison system. The Commission staff also has had conversations with the FRBNY and plans to continue coordinating its efforts with the staff of the Federal Reserve and FRBNY regarding GSCC.

³⁰ See Full Registration Order, *supra*, Note 5.

³¹ GSCC currently does not have off-site backup facilities. GSCC is negotiating with Security Pacific, its software developer, to provide such facilities. In the event of a disaster prior to the conclusion of those negotiations, GSCC believes that Security Pacific would allow GSCC to use Security Pacific facilities. GSCC has agreed to put in place a satisfactory disaster recovery capability as soon as possible. GSCC also understands that such capability must be in place, at least, prior to commencing a netting service.

communication ports.³⁴ Within the first few months after commencing operations, GSCC expects to have approximately 60 participants submitting, in the aggregate, approximately 20,000 trade sides per day. Assuming 60 participants use its comparison operation, GSCC believes it will continue to have significant excess capacity.³⁵

C. Participation Standards

Section 17A(b)(3)(B) of the Act enumerates certain categories of persons a clearing agency's rules must authorize as potentially eligible for access to clearing agency membership and services.³⁶ Section 17A(b)(4)(B) of the Act contemplates that a registered clearing agency have financial responsibility, operational capability, experience and competency standards that are used to accept, deny or condition participation of any participant or any category of participants enumerated in section 17A(b)(3)(B).

GSCC rules provide that persons eligible for GSCC membership and services include all Government Securities dealers, brokers and clearing agent banks and any other entities or persons that can demonstrate to GSCC that their business and capabilities are such that they could reasonably expect material benefit from direct access. GSCC rules require that a participant must have the ability to perform as a clearing member but do not set any specific operational capacity, financial responsibility, experience or competency standards.

In its registration application, GSCC requested an exemption from sections 17A(b)(3)(B) and 17A(b)(4)(B) of the Act. As required by section 17A(b)(3)(B) of the Act, GSCC rules do not specifically enumerate certain categories of membership. In addition, GSCC rules do not include applicant and member financial standards as contemplated in section 17A(b)(4)(B) of the Act. GSCC, however, has represented that it will develop appropriate member financial and operational standards in the near future, before it expands its range of services, and, in any event, before it

offers trade accounting or netting services.

The Commission believes that temporarily exempting GSCC from sections 17A(b)(3)(B) and 17A(b)(4)(B) is appropriate. Financial and operational membership standards depend, in part, on the extent and manner in which the clearing agency allocates losses resulting from member defaults. GSCC, its members and other interested organizations are still developing the framework for GSCC's netting service, and significant changes in the default loss allocations could require material changes to GSCC's participation standards. Second, GSCC is the first privately-owned central clearance and settlement facility for Government Securities (other than for mortgage-backed securities). Although the Treasury Department recently has established minimum capital requirements for Government Securities brokers and dealers,³⁷ the Commission recognizes that those requirements may not adequately address the anticipated credit risks associated with clearing agency membership. GSCC's experience may provide guidance in setting financial standards for its members.

In developing these standards, the Commission believes GSCC must ensure that its applicant and continuing membership standards are fair and are necessary to protect the clearing agency and its participants from unreasonable risk.³⁸ GSCC must file those standards under section 19(b) of the Act. Thus, GSCC's standards will be the subject of public comment and specific proceedings to assure that those standards are consistent with the Act.³⁹

³⁷ See 17 CFR 400.1, 402.1-402.2d, 52 FR 27910 (July 24, 1987). See also 17 CFR 240.15c3-1.

³⁸ Those rules must be designed to prevent unfair discrimination in the admission of participants and among participants. See Standards Release, *supra* note 10. In this connection, the Commission is very concerned that the initial dealer membership of GSCC is composed entirely of primary (and aspiring primary) dealers. We wish to emphasize that in light of the present financial and examination requirements imposed on all Government Securities dealers, any final credit and operational standards which contain such an arbitrary distinction would be inconsistent with the Act and could not be approved.

³⁹ Of course, GSCC's exemption from the requirements of sections 17A(b)(3)(B) and 17A(b)(4)(B) of the Act does not permit GSCC to discriminate unfairly among applicants for membership or member access to GSCC's comparison service. Moreover, under section 19(g), GSCC must comply with its own rules. As noted above, those rules require GSCC to admit to membership government securities brokers, dealers and clearing agent banks. See GSCC Rule 2.

D. Standard of Care

Although the Act does not specify the standard of care that must be exercised by registered clearing agencies with respect to non-custodial functions, the statute requires clearing agencies to promote accurate clearance and settlement of securities and to safeguard securities and funds.⁴⁰ The Commission reviews non-custodial clearing agency services on a case-by-case basis and, in determining the appropriate standard of care, balances the need for a high degree of clearing agency care with the effect the resulting liabilities may have on clearing agency operations, costs, and safeguarding of securities and funds.⁴¹

GSCC plans to offer comparison services under a gross negligence standard of care. The Commission believes that this standard of care is consistent with the Act and earlier interpretations of section 17A concerning non-custodial clearing agency functions. Historically, the Commission has left to user-governed clearing agencies the question of how to allocate losses associated with non-custodial, data processing, clearing agency functions, and has approved clearing agency services embodying a gross negligence standard of care. The Commission believes that a gross negligence standard of care may be appropriate for certain non-custodial functions that, consistent with minimizing risk mutualization, clearing agency members, through their Board of Directors, determine to allocate to individual service users.

Nevertheless, the Commission is concerned that GSCC's failure to perform accurately and timely the comparison service could affect adversely the ability of GSCC members to deliver securities and effect trade settlements. Considering the size of the Government Securities market and the next-day time frame for trade settlements, the Commission believes it is appropriate for GSCC to undertake, in the near future, an ordinary negligence standard of care in performing all functions affecting member settlements of Government Securities.

⁴⁰ The Commission believes that, rather than promulgate a specific standard of care for non-custodial functions, the preferable approach is for the clearing agency and its participants to establish their own standard because standards of care represent an allocation of rights and liabilities between a clearing agency and its participants.

⁴¹ See, e.g., Full Registration Order, *supra* note 5; Securities Exchange Act Release No. 22940, 51 FR 7189 (February 28, 1986).

³⁴ A communication port is a dedicated line in which information can flow between GSCC and the participant. There may be multiple communication hook-ups with one participant. The capacity can be easily expanded to accommodate more participants.

³⁵ GSCC has tested operating systems extensively, and, among other things, processed successfully as many as 100,000 trade sides.

³⁶ Those persons include, among others: Registered broker-dealers, other registered clearing agencies, registered investment companies, banks and insurance companies.

E. Fair Representation

Section 17(b)(3)(C) requires that a clearing agency's rules assure fair representation to its participants and shareholders in the selection of its directors and administration of its affairs. The Commission has interpreted the fair representation standard to require specific clearing agency rules that are designed to facilitate continuing fair representation of clearing agency participants.⁴² As discussed below, the Commission is temporarily exempting GSCC from compliance with section 17A(b)(3)(C) of the Act.

The GSCC shareholders' agreement establishes the structure and composition of the GSCC Board of Directors. After the completion of the current stock offering to eligible purchasers, the present GSCC board will be replaced by a 15 member GSCC board comprised of six primary or aspiring primary dealers, three brokers, three clearing agent banks, one management director (GSCC's President) and two NSCC designated directors. That initial Board would serve for three years. For subsequent elections, the twelve participant director positions will be divided into three classes (one class elected for three years, the second for two years and the third for one year). In 1991, each class will be composed of the following categories: Two primary or aspiring primary dealers; one broker, and one clearing agent bank. In subsequent elections, four participant directors will be elected annually regardless of their participation category. Participant directors must, by definition, be shareholders, which initially will be primary and aspiring primary dealers, brokers and clearing banks.

Under the GSCC shareholders' agreement, GSCC will nominate candidates for participant director positions. Any participant may nominate additional candidates by filing with the Secretary of GSCC a petition signed by at least five participants. All nominees will be submitted to all GSCC participants for a vote. Those nominees receiving the greatest number of votes

by class and category will be certified to the shareholders for election. Under the shareholders' agreement, shareholders will be required to vote for the selected participant directors.

Under the shareholders' agreement, each participant will be entitled to cast votes based on the participants' use of certain GSCC services. Comparison-only participants will be entitled to two votes and those participants that also use the netting services will be entitled to four votes. The shareholder's agreement also allows for cumulative voting. Thus, a participant may cast all its votes for one nominee or divide its votes among several nominees.

A GSCC management director will be designated by the GSCC Board and will be elected for a one-year term, and will serve at the discretion of the GSCC Board. Two NSCC-designated directors also will be elected for one-year terms and will serve at the discretion of the NSCC Board. Under the shareholders' agreement, shareholders will be required to cast their votes in favor of the non-participant directors so designated.

GSCC believes that electing the entire board to a three-year term is appropriate as GSCC grows and expands its services and participant base. Moreover, GSCC believes the categories for the initial board election reasonably reflect the present membership of GSCC.

The Commission preliminarily believes that the composition of GSCC's Board of Directors reasonably reflects GSCC's anticipated initial membership. Nevertheless, the Commission believes it is appropriate to defer, until a later date, its determination whether the selection process for GSCC's Board of Directors assures participants fair representation, because GSCC plans to expand its services during the temporary registration period and because of the uncertainty in GSCC's final participant base.⁴³ Thus, the Commission plans to reevaluate the selection process for the Board of Directors before granting full registration as a clearing agency.

F. Other Determinations

1. Capacity To Comply With the Act and Enforce Compliance by Participants

(i) *GSCC Compliance with the Act.* Section 17A(b)(3)(A) of the Act requires that GSCC have the capacity to comply with the provisions of the Act and the

rules and regulations thereunder. Commission rules require GSCC to keep and preserve certain records,⁴⁴ obtain and retain fingerprints from personnel,⁴⁵ and register and participate in the Commission's Lost and Stolen Securities Program.⁴⁶ The Commission staff intends to monitor GSCC to assure its compliance with the Act. In addition, the staff has reviewed GSCC's rules and procedures and GSCC's facilities management arrangement with NSCC. Based upon that review and the Commission's experience with NSCC as a registered clearing agency, the Commission believes that GSCC has the capability to comply with the Act and its rules and regulations.

(ii) *GSCC Enforcement of Participant Compliance with GSCC Rules and Procedures.* Section 17A(b)(3)(A) of the Act also requires GSCC to have the capacity to enforce participant compliance with its rules. GSCC's rules must provide GSCC with the ability to impose appropriate sanctions on participants that violate GSCC's rules⁴⁷ and must provide fair procedure for the imposition of such sanctions.⁴⁸ GSCC's rules provide for disciplinary procedures to enforce compliance with GSCC's rules and the authority to impose appropriate sanctions.

Under GSCC's rules, GSCC may impose a fine of up to \$5,000 or expulsion, suspension, limitation of or restriction on activities, functions and operations, or censure or any other fitting sanction. Except when a participant is summarily suspended or summarily prohibited or limited access to services, GSCC rules require GSCC to furnish a written statement of charges to the affected GSCC member before the imposition of any fine or other sanction. Only the Board of Directors or a Board-designated Committee composed of directors may impose a summary action

⁴⁴ Rule 17a-1 requires a registered clearing agency to keep and preserve at least one copy of all documents, including correspondence, memoranda, papers, books, notices, accounts, and other records, as are made or received by it in the course of business.

⁴⁵ Rule 17f-2 requires a registered clearing agency to obtain and maintain a record of fingerprints of each of its directors, officer and employees who do not qualify for an exemption from fingerprinting contained within the rule. A copy of each set of fingerprints must also be sent to the Federal Bureau of Investigation.

⁴⁶ 17f-1 requires a registered clearing agency to register and participate in the Lost and Stolen Securities Program ("Program"). Under the Program, a participant is required to report the discovery of a theft or loss of a security and to inquire with respect to securities which come into its possession whether the security has been reported lost, missing or stolen.

⁴⁷ See section 17A(B)(3)(G) of the Act.

⁴⁸ See section 17A(b)(3)(H) of the Act.

⁴² The Act does not define fair representation or set up particular standards of representation. Instead, it provides that the Commission must determine whether the rules of the clearing agency regarding the manner in which decisions are made give fair voice to participants as well as to shareholders in the selection of directors and the administration of its affairs. With respect to providing participants with a meaningful opportunity to be represented in the selection of the board of directors and the administration of the clearing agency's affairs, the Standards counsel that each clearing agency's procedures be evaluated on a case-by-case basis. See Standards Release, *supra* note 10.

⁴³ The Commission notes, however, its expectation that GSCC will not place arbitrary barriers to participation by financially qualified government securities brokers and dealers. See Standards Release, *supra* note 10.

and then only under certain limited conditions in accordance with section 17A(b)(5)(C) of the Act.⁴⁹

The affected participant or applicant has a right to appeal the fine or other sanction (including summary suspension) to an impartial panel of directors. Except for summary actions, a fine or other sanction shall be stayed pending the appeal. Decisions of the panel are final, but the Board of Directors may in its discretion modify any sanction or reverse any decision of the Panel that is adverse to the interested participant. Under the Act, the affected participant may appeal final clearing agency decisions to the Commission or its appropriate regulatory agency. The Commission believes that these procedures substantially fulfill the requirements of the Act.

2. GSCC Fees

Section 17A(b)(3)(D) of the Act requires a clearing agency's rules to allocate equitably among participants reasonable fees, dues or other charges. Section 17A(b)(3)(E) of the Act provides that clearing agency rules may not impose any schedule of prices or fix rates for services rendered by participants. GSCC's application for registration does not contain account maintenance or comparison service fees for members. The Commission understands that GSCC plans to establish fees in the near future. GSCC must file its proposed fee schedule under section 19(b) of the Act for Commission review before imposing any fees or other charges.

3. Competition

Section 17A(a)(2) of the Act directs the Commission to have due regard for the maintenance of fair competition among brokers, dealers, clearing agencies, and transfer agents. Section 17A(b)(3)(I) provides that a clearing agency's rules may not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed below, the Commission believes that GSCC rules and its registration as a clearing agency will not impose any inappropriate burden on competition.

The Commission believes that GSCC services can make efficient, automated processing available to a wide universe of institutions, thus decreasing the need

for each institution to develop its own in-house processing systems, hire personnel and incur other expenses associated with transaction processing. Although GSCC does not have applicable financial responsibility or specific operational standards, as contemplated by section 17A(b)(4)(B), GSCC's rules do not prohibit any Government Securities broker, Government Securities dealer or other institution that will benefit from the use of GSCC's services from joining GSCC, provided the institution has the capacity to provide GSCC all necessary information needed to process transactions. In addition, GSCC is committed to developing appropriate financial responsibility and operational standards consistent with the standards before GSCC begins to provide any service, other than trade comparison, including netting.⁵⁰

The Commission believes that GSCC's registration will not result in any inappropriate burdens on competition among banks or other entities providing clearing services. Banks and other entities providing clearing services can participate in GSCC and likely will continue to perform settlement services for a majority of Government Securities brokers and dealers.

G. GSCC's Request for 36 Month Temporary Registration

GSCC has requested a 36 month temporary registration period. GSCC plans to expand its services and to offer those expanded services to a wider range of participants in the Government Securities market.⁵¹ GSCC believes it needs the next several years to develop and implement those services.

The Commission agrees with GSCC that, given the expansion of the services and participant base, a 36 month temporary registration period is reasonable. The Commission also believes that the 36 month period will allow the Commission time to review GSCC's services in light of the Standards and to review GSCC as a fully functioning clearing agency before the Commission considers whether to grant GSCC full registration as a clearing agency.

⁴⁹ In developing additional services and participation standards, GSCC must ensure that standards do not impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act. See Standards Release, *supra* note 10.

⁵¹ See letter from Karen L. Saperstein, Associate General Counsel, GSCC, to Jonathan Kallman, Associate Director, Division of Market Regulation (March 16, 1988).

IV. Conclusions and Determinations

The Commission has reviewed GSCC's application for registration as a clearing agency pursuant to section 17A(b) and 19(a)(1) of the Act and pursuant to Rule 17Ab2-1 under the Act and GSCC's request for exemption from one or more of the determinations the Commission is directed to make pursuant to subparagraph (A)-(I) of section 17A(b)(3) of the Act.

After reviewing GSCC's application for registration, the Commission has determined that GSCC is organized and has the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities and to safeguard funds in its custody or control or for which it is responsible; to comply with the provisions of the Act and the rules and regulations thereunder; to enforce compliance by its participants with the rules of the clearing agency; and to carry out the purposes of section 17A. The Commission also has determined that the GSCC rules are designed to promote prompt and accurate clearance and settlement of securities transactions; to assure the safeguarding of securities and funds which are in the custody or control of GSCC or for which it is responsible; to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions; to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions; to prevent unfair discrimination in the admission of participants or among participants in the use of GSCC; and, in general, to protect investors and the public interest. In addition, the Commission has determined that GSCC rules provide for the equitable allocation of reasonable dues, fees and other charges among its participants; do not impose any schedule of prices, or fix rates or other fees, for services rendered by its participants; provide for appropriate discipline of participants for violation of any provision of GSCC rules by expulsion, suspension, limitation of activities, functions and operations, fines, censure, or any other fitting sanction; provide a fair procedure with respect to the disciplining of participants, the denial of participation to any person seeking participation therein, and the prohibition or limitation by GSCC of any person with respect to access to services offered by the clearing agency; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

⁴⁸ See GSCC Rule 46. A participant may be suspended summarily if, among other things, the participant is: (1) Expelled or suspended from any self-regulatory organization; or (2) in such financial or operating difficulty that GSCC determines that such action is necessary for the protection of GSCC, its participants, creditors or investors.

With regard to GSCC's request for a temporary exemption from the participation requirements, including financial responsibility and operational capability standards, of section 17A(b)(3)(B) and 17A(b)(4)(B) of the Act, the Commission believes that it is appropriate to temporarily exempt GSCC from those participation requirements while it only provides comparison services. GSCC, however, must have participation requirements that comply with section 17A in place and approved by the Commission before offering netting services to its participants. Because of GSCC's planned expansion of services and the uncertainty of GSCC's participant base, once it expands services, the Commission believes it is appropriate to temporarily exempt GSCC from the fair representation requirements of section 17A(b)(3)(C) of the Act. The Commission reserves the right to modify, by order (including such orders as the Commission may issue under section 19(b) of the Act in connection with changes to GSCC's rules), the terms, scope, or conditions of the exemptions from the participation and the fair representation requirements of section 17A of the Act, if it determines such modification is appropriate for the protection of investors or in the public interest.

With regard to the request for a 36 month temporary registration period, the Commission believes that 36 months is an appropriate time period for GSCC to develop and expand its services and participant base within the Government Securities market and to allow the Commission appropriate time to review its determination and to consider whether to grant GSCC full registration as a clearing agency.

It is therefore ordered, pursuant to section 17A(b)(2) and 19(a) of the Act and Rule 17Ab2-1(c)(2) thereunder, that GSCC's registration be and it hereby is granted, and that GSCC hereby is granted exemptions from the participation standard in sections 17A(b)(3)(B) and 17A(b)(4)(B) of the Act and the fair representation standard in section 17A(b)(3)(C) of the Act, subject to the terms, exemptions and other qualifications contained in this order, to be effective for not more than 36 months from the date of this order.

By the Commission.

Dated: May 24, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-12123 Filed 5-27-88; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Midwest Stock Exchange, Inc.**

May 24, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Atlanta Gas Light Co.

Common Stock, \$5.00 Par Value (File No. 7-3481)

Blue Arrow, PLC

American Depository Shares, No Par Value (File No. 7-3462)

Freeport McMoran Copper Company, Inc.

Class A Common Stock, \$.10 Par Value (File No. 7-3463)

Nuveen California Municipal Income Fund, Inc.

Common Stock, \$.01 Par Value (File No. 7-3464)

Nuveen Municipal Income Fund, Inc.

Common Stock, \$.01 Par Value (File No. 7-3465)

A.H. Belo Corporation

Common Stock, \$1.67 Par Value (File No. 7-3466)

Matrix Corporation (Delaware)

Common Stock, \$1.00 Par Value (File No. 7-3467)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 15, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-12081 Filed 5-27-88; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Philadelphia Stock Exchange,
Inc.**

May 24, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Barry Wright Corporation

Common Stock, \$1.00 Par Value (File No. 7-3468)

C3, Inc.

Common Stock, \$0.01 Par Value (File No. 7-3469)

Coachmen Industries, Inc.

Common Stock, No Par Value (File No. 7-3470)

Formica Corporation

Common Stock, \$0.01 Par Value (File No. 7-3471)

Lewis Galoob Toys, Inc.

Common Stock, No Par Value (File No. 7-3472)

Hillenbrand Industries, Inc.

Common Stock, No Par Value (File No. 7-3473)

Murray Ohio Manufacturing Company

Common Stock, \$2.50 Par Value (File No. 7-3474)

Vestron, Inc.

Common Stock, \$0.01 Par Value (File No. 7-3475)

Artic Alaska Fisheries Corporation

Common Stock, \$0.01 Par Value (File No. 7-3476)

Atlanta Gas Light Company

Common Stock, \$5.00 Par Value (File No. 7-3477)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 15, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair

and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-12082 Filed 5-27-88; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Philadelphia Stock Exchange,
Inc.**

May 23, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, of unlisted trading privileges in the following securities:

Banner Industries, Inc.

Class A Common Stock, \$0.10 Par Value (File No. 7-3454)

Carolina Freight Corporation

Common Stock, \$0.50 Par Value (File No. 7-3455)

Dexter Corporation

Common Stock, \$1.00 Par Value (File No. 7-3456)

Heilig-Meyers Company

Common Stock, \$1.33 Par Value (File No. 7-3457)

Kathy Industries, Inc.

Common Stock, \$1.00 Par Value (File No. 7-3458)

Koger Properties, Inc.

Common Stock, \$0.10 Par Value (File No. 7-3459)

KN Energy, Inc.

Common Stock, \$5.00 Par Value (File No. 7-3460)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 15, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges

pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-12083 Filed 5-27-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

**Applications for Certificates of Public
Convenience and Necessity and
Foreign Air Carrier Permits Filed
During the Week Ending May 20, 1988**

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45629

Date Filed: May 18, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 15, 1988.

Description: Application of Societe Antillaise De Transports Aeriens, d/b/a Air Guadeloupe pursuant to section 402 of the Act and Subpart Q of the Regulations requests an amendment of its foreign air carrier permit, to add passenger service to St. Thomas, U.S. Virgin Islands.

Phyllis T. Kaylor,

Chief of Documentary Services Division.

[FR Doc. 88-12117 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

**Air Traffic Procedures Advisory
Committee Meeting**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of Air Traffic Procedures Advisory Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held from July 12 through July 15, 1988. Attendance is open to the public, but will be limited to the space available.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul H. Strybing, Executive Director, ATPAC, Air Traffic Operations Service, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3725.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the ATPAC to be held from July 12, at 9 a.m., through July 15, 1988, at 11:30 a.m., at the Denver Airport Clarion Hotel, Denver, CO. The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than July 8, 1988. The next quarterly meeting of the FAA ATPAC is planned to be held from October 24 through October 28, 1988, in Washington, DC. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on May 24, 1988.

Paul H. Strybing,

Executive Director, Air Traffic Procedures
Advisory Committee.

[FR Doc. 88-12072 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

[Inconsistency Ruling No. IR-24; Docket IRA-41]

City of San Antonio Regulations Governing Placarding Requirements for Transportation of Hazardous Materials

Applicant: McGill Specialized Carriers, Inc.

City Regulations Affected: City of San Antonio (Texas) Code, section 11-31.

Applicable Federal Requirements: Hazardous Materials Transportation Act (HMTA) (Pub. L. 93-633, 49 App. U.S.C. 1801 *et seq.*) and the Hazardous Materials Regulations (HMR) (49 CFR Parts 171-179) issued thereunder.

Mode Affected: Highway.

Issue Date: May 24, 1988.

Ruling: Section 11-31 of the City of San Antonio Code, entitled "Adoption of the Uniform Fire Code," is inconsistent with the HMR to the extent that it adopts section 77.302(j) of the 1979 Edition of the Uniform Fire Code, and, therefore, is preempted, to that extent, under section 112(a) of the HMTA (49 App. U.S.C. 1811(a)).

SUMMARY: This inconsistency ruling is the opinion of the Office of Hazardous Materials Transportation (OHMT) of the Department of Transportation (DOT) concerning whether Section 11-31 of the City of San Antonio Code, to the extent that it adopts Article 77, section 302(j) (also referred to as section 77.302(j)) of the 1979 Edition of the Uniform Fire Code, is inconsistent with the HMTA and the HMR and thus preempted by section 112(a) of the HMTA. This ruling was applied for and is issued under the procedures set forth at 49 CFR 107.201-107.209.

FOR FURTHER INFORMATION CONTACT:

Edward H. Bonekemper, III, Senior Attorney, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590 [Tel. (202) 366-4362].

I. Background

A. Chronology

On September 2, 1987, McGill Specialized Carriers, Inc., (McGil) filed an application for an administrative ruling seeking a determination that a certain provision of the City of San Antonio (Texas) Code, adopting the 1979 Edition of the Uniform Fire Code, is, to a limited extent, inconsistent with the HMR. McGill contends that section 11-31 of the San Antonio Code, entitled "Adoption of the Uniform Fire Code," is inconsistent with the HMR to the extent

that it adopts section 77.302(j) of the 1979 Edition of the Uniform Code.

McGil contends that, on June 4, 1987, San Antonio cited one of McGill's drivers for failure to display an "Explosives" sign on a motor vehicle in violation of section 77.302(j) of the Uniform Fire Code. The vehicle was transporting a shipment of two skids of "CLS Launches" and two boxes of "Electric Squibb Class C Explosives" from Sunnyvale, California to Titusville, Florida. The vehicle did not have an "Explosives" placard affixed to it, which, McGill alleges, would have been in violation of the HMR.

McGil asserts that section 77.302(j) of the Uniform Fire Code is unduly vague. section 77.302(j) provides as follows:

Vehicles transporting explosives shall display explosives signs on both sides, front and rear conforming to the requirements of the Vehicle Code.

McGil alleges that the term "Vehicle Code" is defined neither in the Uniform Fire Code nor in the local ordinance of the City of San Antonio. McGill further claims that there is no provision which qualifies the language of this section to make it consistent with the HMR.

McGil states that the authors of the Uniform Fire Code are considering a proposal by the Institute of Makers of Explosives to change several provisions relating to explosive materials so that they will be consistent with the HMR. McGill states that this proposal would change section 77.302(j) to read:

Vehicles transporting explosives shall display all placards, lettering or numbering required by the United States Department of Transportation.

McGil contends that section 77.302(j) conflicts with the HMR. It asserts that the pertinent sections of the HMR with which there is an inconsistency are, and characterizes them, as follows:

(1) Section 172.504, Table 1 requires that "Explosives A" and "Explosives B" placards be displayed when materials classified under this Table are transported.

(2) Section 172.504, Table 2 requires that "Dangerous" placards be displayed for Class C explosives.

(3) Section 172.504(c) provides that no placard is required when the gross weight of all hazardous materials covered by Table 2 is less than 1,000 pounds.

(4) Section 172.502(a)(2) prohibits the display of any placard other than one which represents a hazard of the hazardous material being transported.

McGil also seeks comparison with sections 172.519 "et seq.", 172.521, 172.522, and 172.523. In summary, McGill contends that if "Explosives" signs

required by the San Antonio Code provision and the Uniform Fire Code had been displayed, it would have been in violation of these Federal regulations prohibiting such placarding under the allegedly existing circumstances. It urges a finding of inconsistency under both the "dual compliance" and "obstacle" tests.

On November 6, 1987 (52 FR 43016), OHMT published a Public Notice and Invitation To Comment soliciting public comments on the McGill application. Comments supporting the application for a finding of inconsistency were filed by the Institute of Makers of Explosives and the National Tank Truck Carriers, Inc. No comments were filed by the City of San Antonio or any other party in opposition to the application.

II. General Authority and Preemption Under the HMTA

The HMTA at section 112(a) (49 App. U.S.C. 1811(a)) preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in (the HMTA), or in a regulation issued under (the HMTA)." This express preemption provision makes it evident that Congress did not intend the HMTA and its regulations to completely occupy the field of transportation so as to preclude any state or local action. The HMTA preempts only those state and local requirements that are "inconsistent."

In the HMTA's Declaration of Policy (section 102) and in the Senate Commerce Committee language reporting out what became section 112 of the HMTA, Congress indicated a desire for uniform national standards in the field of hazardous materials transportation. Congress inserted the preemption language in section 112(a) "in order to preclude a multiplicity of state and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous material transportation" (S. Rep. 1192, 93rd Cong., 2d Sess., 37-38 (1974)). Through its enactment of the HMTA, Congress gave the Department the authority to promulgate uniform national standards. While the HMTA did not totally preclude state or local action in this area, Congress apparently intended, to the extent possible, to make such state or local action necessary. The comprehensiveness of the HMR, issued to implement the HMTA, severely restricts the scope of historically permissible state or local activity.

Although advisory in nature, inconsistency rulings issued by OHMT under 49 CFR Part 107 provide an

alternative to litigation for determination of the relationship between Federal requirements and those of a state or political subdivision. If a state or political subdivision requirement is found to be inconsistent, the state or local government may apply to OHMT for a waiver of preemption. 49 App. U.S.C. 1811(b); 49 CFR 107.215-107.225.

In issuing its advisory inconsistency rulings concerning preemption under the HMTA, OHMT is guided by the principles enunciated in Executive Order 12612 entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of state laws only when the statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of state authority directly conflicts with the exercise of Federal authority. The HMTA, of course, contains an express preemption provision, which OHMT has implemented through regulations and interpreted in a long series of inconsistency rulings beginning in 1978.

Since these proceedings are conducted pursuant to the HMTA, only the question of statutory preemption under the HMTA will be considered. A court might find a non-Federal requirement preempted for other reasons, such as statutory preemption under another Federal statute, preemption under state law, or preemption by the Commerce Clause of the U.S. Constitution because of an undue burden on interstate commerce. However, OHMT does not make such determinations in its inconsistency ruling process.

OHMT has incorporated into its procedures (49 CFR 107.209(c)) the following criteria for determining whether a state or local requirement is consistent with, and thus not preempted by, the HMTA:

(1) Whether compliance with both the non-Federal requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the non-Federal requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

These criteria are based upon, and supported by, U.S. Supreme Court decisions on preemption. *Hines v. Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132 (1963); *Ray v. Atlantic Richfield Co.*, 435 U.S. 151 (1978).

The first criterion, the "dual compliance" test, concerns those non-Federal requirements which are

irreconcilable with Federal requirements; that is, compliance with the non-Federal requirement causes the Federal requirement to be violated, or *vice versa*. The second criterion, the "obstacle" test, involves determining whether a state or local requirement is an obstacle to executing and accomplishing the purposes of the HMTA and the HMR; a requirement which is such an obstacle is inconsistent. Application of this second criterion requires an analysis of the non-Federal requirement in light of the requirements of the HMTA and the HMR, as well as the purposes and objectives of Congress in enacting the HMTA and the manner and extent to which those purposes and objectives have been carried out through OHMT's regulatory program.

III. Public Comments

The only two commenters, the Institute of Makers of Explosives (IME) and the National Tank Truck Carriers, Inc. (NTTC), supported the applicant's request that the Code provision at issue be found inconsistent.

IME, the safety association of the commercial explosives industry in the United States and Canada, represents 27 companies which make over 75% of the four billion pounds of commercial explosives used annually in the U.S.

IME states that portions of section 77 (Explosives) of the Uniform Fire Code are obsolete and/or conflict with Federal regulations and accepted industry practices and standards. IME states that it has submitted recommended changes to correct these deficiencies.

IME concludes by stating that it is unfortunate that section 77 of the Uniform Fire Code has become obsolete and the IME supports any inconsistency application caused by portions of section 77 which are obsolete or conflict with Federal regulations.

NTTC, the national trade association of the tank truck industry, represents over 200 corporations involved in hazardous materials transportation. It supports the concept of a nationally uniform system of hazardous materials transportation regulations.

Because Section 77 of the Uniform Fire Code references and unspecified "Vehicle Code," NTTC contends that both the Uniform Fire Code provision and San Antonio's adoption thereof are inconsistent with the HMR. It further argues that placarding of motor vehicles transporting hazardous materials is an exclusively Federal area of regulation and that deviations from the Federal requirements could produce dangerous

confusion in the critical area of emergency response.

As to the San Antonio regulation at issue here, NTTC provides the following specific arguments:

The "Uniform Fire Code", adopted by the City of San Antonio, calls for an "explosives sign". No alert words, pictographic symbols, designation of subclassification, color, size or dimension is specified. A literal reading of the "Code" would suggest that any quantity of any type of explosive is to be "signed" (placarded).

Contrast this with the explicit regulations of the Administrator within Title 49 CFR Part 172. Additionally (and therein), the HMR proscribes certain conditions when vehicles are *not* to be placarded.

Therefore, the "Uniform Fire Code" fails the Administrator's "obstacle test" insofar as it seeks to substitute a generic "all purpose" "sign" in place of the specific placarding system required by the HMR.

Accomplishment of the goals of the HMTA could only be frustrated by such substitution.

In addition, the "Uniform Fire Code" fails the Administrator's "dual compliance test" as it would mandate that an otherwise unspecified "explosives sign" be attached to a vehicle transporting less than 1,000 lbs. of materials specified in Table II of 49 CFR 172.504.

In conclusion, NTTC urges that enforcement of section 77.302(j) of the Uniform Fire Code under the San Antonio Code be found inconsistent with the HMTA.

IV. Ruling

Placards and other hazard warning requirements consistently have been determined to constitute an area of exclusive Federal jurisdiction under the HMTA. Therefore, such requirements at the state or local level have been held to be inconsistent if they are in addition to, or different from, the HMR placarding requirements. Inconsistency Ruling No. IR-2 (IR-2), 44 FR 75566 (Dec. 20, 1979); IR-3, 46 FR 18918 (Mar. 26, 1981); *Kappelman v. Delta Air Lines, Inc.*, 539 F.2d 165 (D.C. Cir. 1976), *cert. denied* 429 U.S. 1061 (1977); *National Tank Truck Carriers, Inc. v. City of New York*, 677 F.2d 270 (2nd Cir. 1982); *American Trucking Assns. v. City of Boston, C.A. 81-628-MA* (D. Mass. 1987); *contra*: *National Paint & Coatings Assn., Inc. v. City of New York*, CV-84-4525 (E.D. N.Y. 1985).

In IR-2, *supra*, a Rhode Island requirement for an illuminated rear bumper sign for certain hazardous materials was found inconsistent because it conflicted with HMR lighting regulations and would divert attention from the HMR-required placards. The rationale set forth for this determination was:

Hazard warning systems are another area where [OHMT] perceives the Federal role to be exclusive. [OHMT] has thoroughly considered this subject and has issued regulations on . . . placarding of vehicles in order to communicate the hazards of the materials contained therein. The effectiveness of these systems depends to a large degree on educating the public, especially emergency response personnel.

Similarly, it was succinctly stated in IR-3, *supra*, that "The area of hazard warnings is essentially an area of exclusive HMTA domain." 46 FR 18924. On that basis, in IR-3 a City of Boston requirement that hazardous materials-carrying vehicles display numbers identifying their hazardous materials contents was found inconsistent; the Boston regulation required number displays not required by the HMR and contradicted exceptions and variations provided in the HMR. Also found inconsistent in IR-3 was a requirement for a sign on vehicles carrying residual quantities of hazardous materials because it specified a form of vehicle marking or placarding that modified the basic hazard warnings of the HMR. The Boston placarding and product identification requirements also were found inconsistent in *American Trucking Assns. v. City of Boston, supra*.

The only exception to this general trend was a preliminary decision in *National Paint & Coatings Assn., Inc. v. City of New York, supra*. There plaintiffs failed to obtain summary judgment because the Court said they had not made a sufficient showing that the HMR placarding provisions were intended to completely occupy the field and preempt New York City hazard warning sign requirements with respect to local deliveries.

It is OHMT's view that the HMR placarding provisions do completely occupy the field and, therefore, preempt all state and local placarding and warning sign requirements for hazardous materials transportation which are not identical to the Federal requirements. This is true with respect to requirements applying solely to pickups and deliveries, as well as to requirements applying to through-traffic, because all such non-identical requirements create confusion and undermine the uniform system of hazard communication necessary for the safe transportation of hazardous materials. Transportation viewed as being a mere pickup or delivery by one jurisdiction actually may be just the beginning or end of multi-state transportation through numerous local jurisdictions.

At issue in this proceeding is the consistency of section 11-31 of the San Antonio Code insofar as it adopts

section 77.302(j) (part of Article 77) of the Uniform Fire Code, 1979 Edition, which provides: "Vehicles transporting explosives shall display explosives signs on both sides, front and rear conforming to the requirements of the Vehicle Code."

A significant problem with this section is its vagueness. First, it refers to an apparently non-existent "Vehicle Code"; the drafters of the Uniform Fire Code possibly intended that jurisdictions adopting that Code have a Vehicle Code specifying requirements for warning signs. The Applicant's un rebutted contention is that neither the San Antonio ordinance adopting the Uniform Fire Code nor that Code defines "Vehicle Code." As a result, it is unclear what "explosive signs" are to be used.

Second, section 77.302(j) does not define the type or quantity of explosives to which it applies. However, the Applicant's un rebutted allegation is that enforcement action under this provision was taken with respect to transportation of less than one pound of Class C explosives. Therefore, it appears that this placarding requirement applies to any quantity or any type of explosive.

This sweeping applicability of the San Antonio regulation clearly exposes its inconsistency with numerous provisions of the HMR. Although section 172.522 specified placarding requirements for Class A explosives and section 172.523 specifies placarding requirements for Class B explosives, there are no placarding requirements for Class C explosives. These provisions, in turn, reflect the fact that Table 1 of section 172.504 requires EXPLOSIVES A and EXPLOSIVES B placards to be displayed when materials so classified are being transported, but Table 2 of section 172.504 requires only a DANGEROUS placard when Class C explosives are being transported.

In addition, section 173.504(c) provides that no placard is required when the gross weight of all hazardous materials covered by Table 2 is less than 1,000 pounds. Finally, section 172.502(a)(2) prohibits the display of any placard other than one representing the hazard of the hazardous material being transported. This language must be interpreted as referring to "hazard" as defined in the HMR because the definition of hazard classes is an exclusively Federal function. IR-5, 47 FR 51991 (Nov. 18, 1982); IR-18, 52 FR 200 (Jan. 2, 1987); IR-20, 52 FR 24396 (June 30, 1987); IR-21, 52 FR 37072 (Oct. 2, 1987); *Missouri Pacific RR Co. v. Railroad Commission of Texas*, 671 F. Supp. 466 (W.D. Tex. 1987).

V. Summary

The San Antonio regulation purports to create a requirement for hazardous materials transportation placarding, a regulatory area which has been fully occupied by the HMR. Also, it creates a requirement which causes confusion and undermines compliance with the HMR's placarding regulations, thereby failing the "obstacle" test for consistency. Finally, by requiring placarding in situations in which the HMR prohibit placarding, the San Antonio regulation also fails the "dual compliance" test because it makes it impossible for a carrier to comply with both the local requirement and the HMR.

VI. Ruling

For the foregoing reasons and on the basis of this record, I find that section 11-31 of the City of San Antonio Code, entitled "Adoption of the Uniform Fire Code," is inconsistent with the HMR to the extent that it adopts section 77.302(j) of the 1979 Edition of the Uniform Fire Code, and, therefore, is preempted, to that extent, under section 112(a) of the HMTA (49 App. U.S.C. 1811(a)).

Any appeal of this ruling must be filed within 30 days of service in accordance with 49 CFR 107.211.

Issued in Washington, DC, on May 24, 1988.

Alan I Roberts,

Office of Hazardous Materials
Transportation.

[FR Doc. 88-12073 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in April 1988. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4453-X	DOT-E 4453	Independent Explosives Co. of Pennsylvania, Scranton, Pa.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1 and 3)
6309-X	DOT-E 6309	Insta-Foam Products, Inc., Joliet, IL....	49 CFR 173.315(a)(1), 174.63(b).....	To authorize use of non-DOT specification steel portable tanks, for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1 and 2.)
6557-P	DOT-E 6557	U.S. Department of Defense, Falls Church, VA.	49 CFR 175.3, 178.36-4(c), 178.37-4(c), 178.50-4(c).	To become a party to exemption 6557. (Modes 1, 2, 3, 4, 5.)
7616-X	DOT-E 7616	Union Pacific Railroad Co., Omaha, NE.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To renew and to authorize use of electronic shipping papers in lieu of hard copy shipping papers, hard copy will be sent at a future date, both shipping papers include necessary certifications. (Mode 2.)
7616-P	DOT-E 7616	Grand Trunk Western Railroad Co., Detroit, MI.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To become a party to exemption 7616. (Mode 2.)
7616-P	DOT-E 7616	Norfolk Southern Corp. and Subsidiaries Norfolk, VA.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To become a party to exemption 7616. (Mode 2.)
8390-X	DOT-E 8390	Jones-Hamilton Co., Newark, CA.....	49 GFR 173.272, 178.210, 178.24a.....	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8526-X	DOT-E 8526	The ServiceMaster Co., L.P., Downers Grove, IL.	49 CFR 177.834(f)(2)(1).....	To authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment. (Mode 1.)
8864-P	DOT-E 8864	Arrow Transportation Co., Portland, OR.	49 CFR 173.245(a), 178.340-10, 178.340-8, 178.341-3, 178.341-4, 178.341-5, 178.341-7.	To become a party to exemption 8864. (Mode 1.)
9213-X	DOT-E 9213	Bulk-Pack, Inc., West Monroe, LA.....	49 CFR 173.178, 173.182, 173.217, 173.245b, 173.375.	To authorize sodium azide classed as a Class B poison, as an additional commodity. (Modes 1, 2, 3.)
9282-X	DOT-E 9282	Halocarbon Products Corp. N. Augusta, SC.	49 CFR 173.314(c).....	To authorize cargo vessel as an additional mode of transportation. (Modes 1, 2, 3.)
9316-X	DOT-E 9316	Fluoroware, Inc., Chaska, MN.....	49 CFR 173.268, 173.28(k), 173.299, 178.35, 178.35a, Part 173, Subpart F.	To authorize polyethylene overpacks in lieu of the currently authorized steel overpacks. (Modes 1 and 2.)
9340-X	DOT-E 9340	Pioneer Plastics & Services Co. Ltd., Brampton, Ontario, CN.	49 CFR 173.114a, 173.154, 176.83, 178.19, 178.253, Part 173, Subpart F.	To authorize a flammable liquid as an additional commodity for shipment in non-DOT specification polyethylene portable tanks. (Modes 1, 2, 3.)
9577-X	DOT-E 9577	Altus Corp., San Jose CA.....	49 CFR 173.206, 173.247.....	To authorize shipment of batteries containing lithium metal, thionyl chloride and by-products in discharged and depleted states. (Mode 1.)
9856-X	DOT-E 9856	Shadyside Hospital, Pittsburgh, PA.....	49 CFR 173.316, 173.320, 176.63(b)...	To reissue exemption originally issued on an emergency basis to authorize either specification or non-specification packagings (oxygen systems) for use by patients on board a passenger ship. (Modes 1 and 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9739-N	DOT-E 9739	Unocal Corp., Los Angeles, CA.....	49 CFR 173.245.....	To authorize shipment of corrosive liquids in DOT Specification MC-306 stainless steel cargo tanks. (Modes 1 and 2.)
9860-N	DOT-E 9860	Hoover Group, Inc., Beatrice, NE.....	49 CFR 178.82.....	To authorize manufacture, marking and sale of non-DOT specification stainless steel drum-type container of 55-gallon capacity, conforming to DOT Specification 5B with certain exceptions—for shipment of those materials authorized in a DOT Specification 5B removable head stainless steel drum. (Modes 1, 2, 3.)
9861-N	DOT-E 9861	Degussa Corp., Teterboro, NJ.....	49 CFR 173.154, 175.3.....	To authorize shipment of sodium perborate anhydrous (oxoborate), classed as oxidizer, in DOT Specification 44B and 44C bags. (Modes 1, 2, 3, 4.)
9902-N	DOT-E 9902	Purusar Corp., Sunnyvale, CA.....	49 CFR 173.273.....	To authorize use of a DOT Specification 3AA cylinder having a capacity greater than one (1) gallon for the transportation of sulfur trioxide, unstabilized. (Mode 1.)
9903-N	DOT-E 9903	Sherwood, Division of Harsco, Lockport, NY.	49 CFR 173.327(a).....	To authorize manufacture, marking and sale of specially designed and operated valves to be used on cylinders for shipment of poison A materials. (Mode 1.)
9918-N	DOT-E 9918	Hughes Aircraft Co., Tucson, AZ.....	49 CFR 172.101, column 6(b), 173.59(a), 175.30.	To authorize shipment of rocket ammunition with explosive projectile, identified as tow missiles, Classed as Class A explosive. (Mode 4.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9926-N	DOT-E 9926	Implementos Agricolas LaLa, N.A., 35070 Gomez Palacio, Durango, Mexico.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.3, 178.65-2, 178.65-5.	To authorize manufacture, marking and sale of nonrefillable, non-DOT specification cylinder designed and manufactured in accordance with DOT-39 specification, except for material of construction. (Modes 1, 2, 3, 4, 5.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9211-X	DOT-E 9211	Waterman Steamship Corp., New Orleans, LA.	49 CFR 146.29-35(f)	To authorize installation and operation of electrically-powered lighting, air conditioning, alarm, fire detection, and cargo-handling systems in cargo holds containing Class A, B and C explosives in a Maritime Prepositioning Ship (TAKX). (Mode 3.)
EE 9211-X	DOT-E 9211	Maersk Line, Limited, New York, NY.	49 CFR 146.29-35(f)	To authorize installation and operation of electrically-powered lighting, air conditioning, alarm, fire detection, and cargo-handling systems in cargo holds containing Class A, B and C explosives in a Maritime Prepositioning Ship (TAKX). (Mode 3.)
EE 9941-N	DOT-E 9941	Morton Thiokol, Inc., Huntsville, AL.	49 CFR 173.88(e)(2)(ii), 173.92(a)(i), 173.92(b).	To authorize transport of rocket motors in a propulsive state with igniters installed (Mode 1.)
EE 9955-N	DOT-E 9955	International Services Corp., Washington, DC.	49 CFR 173.101, column (6)(b), 175.30.	To authorize transport of ammunition for cannon which is forbidden for shipment aboard cargo aircraft. (Mode 4.)
EE 9956-N	DOT-E 9956	Dixie Petro-Chem, Inc., Houston, TX.	49 CFR 173.277(a)(9), 178.340, 178.343.	To authorize shipment of hypochlorite solution in an unlined non-DOT specification cargo tank constructed of titanium. (Mode 1.)
EE 9957-N	DOT-E 9957	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, 172.420	To authorize transport of lithium batteries containing parallel branches of series connected cells without diodes. (Mode 1.)
EE 9958-N	DOT-E 9958	Burlington Northern Railroad Co., Seattle, WA.	49 CFR 173.29(c)(2), 179.102-2	To authorize a one-time shipment of a tank car which contains a residue of chlorine with a defective liquid valve equipped with a chlorine "C" kit. (Mode 2.)
EE 9959-N	DOT-E 9959	Advanced Technology Materials, Inc., New Milford, CT.	49 CFR 173.276, 175.3	To authorize a one-time shipment of a limited quantity of hydrazine using stainless steel DOT Specification 3E or DOT Specification 3B400 cylinders. (Modes 1 and 4.)
EE 9960-N	DOT-E 9960	Youth With A Mission, Washington, DC.	49 CFR 173.118, 173.21, 175.30, 175.85, Part 107, Appendix B, Part 172, Subparts C, D, E.	To authorize carriage onboard an aircraft of small quantities of a flammable liquid in safety lamp. (Mode 5.)

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8442-X	Texaco Trading and Transportation Inc., Denver, CO.	49 CFR 172.101, 173.315(a), 173.315(c)(1).	To authorize manufacture, marking and sale of non-vacuum insulated DOT Specification MC-331 cargo tanks for transportation of flammable and nonflammable gases. (Mode 1.)
9341-X	Essex Environmental Industries, Inc., Hurst, TX.	49 CFR 173.3(c)	To authorize manufacture, marking and sale of polyethylene, removable head, salvage drums, for transportation of damaged or leaking packages of hazardous materials. (Modes 1 and 2.)

Denials

9820-N Request by Custom Chemical Packaging Company Springfield, OH to authorize exemption from packaging, labeling, and shipping paper requirements of 49 CFR Part 172 for limited quantities of Corrosive, Flammable and Poison B materials denied April 11, 1988.

9838-N Request by S. & W. Waste, Inc. South Kearny, NJ to authorize

exemption from the specification packaging requirements of 49 CFR 173.154 for flammable solids denied April 21, 1988.

Issued in Washington, DC, On May 23, 1988.

J. Suzanne Hedgepeth,
Chief, Exemptions Branch, Office of
Hazardous Materials Transportation.

[FR Doc. 88-12125 Filed 5-27-88; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: May 23, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by

calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0079.

Form Number: CF 4790.

Type of Review: Reinstatement.

Title: Report of international

Transportation of Currency or Monetary Instruments.

Description: The CF 4790 establishes a record, where none previously existed, of currency and negotiable instruments entering and leaving the United States, and has a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings.

Respondents: Individual or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Burden: 26,384 hours.

Clearance Officer: B.J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Irving W. Wilson, Jr.

Departmental Reports, Management Officer.

[FR Doc. 88-12128 Filed 5-27-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: May 23, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0499.

Form Numbers: 5305-SEP.

Type of Review: Extension.

Title: Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

Description: This form is used by an employer to make an agreement to provide benefits to all employees under a Simplified Employee Pension (SEP) described in section 408(k). This form is not to be filed with IRS but to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions to the SEP. The data is used to verify the deduction.

Respondents: Businesses or other for-profit.

Estimated Burden: 26,600 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Irving W. Wilson, Jr.,

Departmental Reports, Management Officer.

[FR Doc. 88-12129 Filed 5-27-88; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Report of New Matching Program

AGENCY: Veterans Administration.

ACTION: Notice of Matching Program—CHAMPVA and DoD CHAMPUS records.

SUMMARY: The Veterans Administration (VA) is providing notice that the Department of Medicine and Surgery (DM&S) will conduct a series of computer matches of VA records of beneficiaries of the Civilian Health and Medical Program of the Veterans Administration (CHAMPVA) with similar records of the Department of Defense (DoD). The goal of these matches is to identify individuals who have received medical services paid for under the CHAMPVA and who are not eligible for the Program.

DATE: It is anticipated the matches will commence approximately May 1988.

ADDRESS: Interested individuals may comment on the proposed matches by writing to the Chief Medical Director (136), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Mr. Stuart Mount, Policies and Procedures Division, Medical Administration Service (136), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, area code 202-233-2143.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: May 23, 1988.

Thomas K. Turnage,

Administrator.

Report of Matching Program

Veterans Administration Records of Civilian Health and Medical Program of the Veterans Administration (CHAMPVA) and Department of Defense Records of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

a. Authority: 38 U.S.C. 613.

b. Program Description.—(1) Purpose. The Department of Medicine and Surgery (DM&S) plans to match the Civilian Health and Medical Program of the Veterans Administration (CHAMPVA) file with the Medical Claims History Files of the Department of Defense. Title 38, United States Code, section 613 authorizes health care for the following persons provided they are not eligible for medical care under CHAMPUS or Medicare:

(i) The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability;

(ii) The surviving spouse or child of a veteran who died as a result of a service-connected disability, or who at the time of death had a total disability, permanent in nature, resulting from a service-connected disability;

(iii) The surviving spouse or child of a person who died while on active duty.

Surviving spouses include those who remarried and the subsequent marriage was terminated. Eligibility for CHAMPVA benefits is determined by the VA and beneficiaries obtain their medical care from private health care providers.

Under an agreement between the VA and the DoD, payment or reimbursement for the costs of CHAMPVA care is under the overall jurisdiction of the Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS). Benefits are paid in the same manner and under the same conditions as benefits are provided to the dependents of retirees, and survivors of deceased members of the uniformed services

under CHAMPUS. OCHAMPUS contracts with various private organizations, or fiscal intermediaries, to process and pay CHAMPUS and CHAMPVA claims. The VA reimburses OCHAMPUS on a monthly basis for actual costs of CHAMPVA claims processed by the fiscal intermediaries. The matches will identify claims that have been paid for persons ineligible for CHAMPVA benefits.

(2) *Procedures.* The VA DM&S will perform the match of a VA system of records on CHAMPVA beneficiaries with information provided by DoD from CHAMPUS records of persons who received medical care paid for under CHAMPVA, to determine if there have been overpayments as a result of ineligible persons receiving CHAMPVA benefits.

In the event of a "hit", i.e., a determination through the match that an individual has received care for which he or she is not eligible, the identity of the person and the information will be verified. Where there are reasonable grounds to believe there has been a payment(s) for an ineligible individual,

the matter will be investigated and collection action will be initiated where appropriate.

c. *Records to be Matched.* Automated records from the following system of records will be matched:

(1) Veterans Administration—Veteran's Spouse or Dependent Civilian Health and Medical Care Records-VA (54VA136) as set forth on page 793 of the *Federal Register* publication titled, "Privacy Act Issuances," 1986 Compilation, Vol. V; and

(2) Department of Defense—Medical Claim History Files (DOCHA 07) set forth on page 175 of the *Federal Register* publication titled, "Privacy Act Issuances," 1986 Compilation, Vol. III.

The disclosure of information from these systems of records, for the purpose of the matching program, is permitted by published routine uses.

d. *Period of Match.* Intermittently from approximately May 1988. The matching may be cyclical or may be repeated periodically.

e. *Safeguards.* Records used in the matches and data generated as a result, will be safeguarded from unauthorized

disclosure. Access will be limited to those persons who have a need for the information in order to conduct the matches or follow-up actions. All of the material will be stored in locked containers when not in use. The matching file will be used and accessed only to match files in accordance with this notice and will not be used to extract information concerning "non hit" individuals for any purpose.

f. *Retention and Disposition.* Records not resulting in "hits" will be destroyed by burning, shredding or electronic erasing within three months of the completion of the individual match. Records resulting in "hits" will be retained by the DM&S until the completion of any necessary administrative or legal action and will then be disposed of in accordance with approved records control schedules and/or approved disposition authority from the Archivist of the United States.

[FR Doc. 88-12048 Filed 5-27-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 53, No. 104

Tuesday, May 31, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 2:00 p.m.-6:00 p.m.

PLACE: African Development Foundation, 1625 Massachusetts Avenue, NW., Suite 600, Washington, DC 20036.

DATE: Wednesday, June 8, 1988.

STATUS: Open.

Agenda

1. Chairman's Report.
2. President's Report.
3. Discussion of OTA Report and ADF's Response to Recommendations.
4. Discussion with OTA principle Investigators.
5. Other.

CONTACT PERSON FOR MORE

INFORMATION: Ms. Janis McCollim, 673-3916.

Leonard H. Robinson, Jr.,

President.

ADF Agency Number 11010006

ADF BOAC Number 953901

[FR Doc. 88-12207 Filed 5-26-88; 1:23 pm]

BILLING CODE 6116-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 24, 1988, 53 FR 18651.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 25, 1988, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers have been added:

Item No., Docket No., and Company

CAC-76

CP84-336-002, CP86-623-000, CP87-409-000,

CP88-52-000 and CP88-84-000.

Transcontinental Gas Pipe Line Corporation

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-12254 Filed 5-26-88 5:56 pm]

BILLING CODE 6717-01-M

Corrections

Federal Register

Vol. 53, No. 104

Tuesday, May 31, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Waiver of Adjustment of Recovery—Excess Resources

Correction

In rule document 88-10353 beginning on page 16542 in the issue of Tuesday, May 10, 1988, make the following correction:

§416.554 [Corrected]

On page 16543, in the third column, in §416.554, in the introductory paragraph, in the 11th line, "no" should read "on".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-08-4220-11: GP-08-130; OR-2187, ORE-013982, ORE-015246-A, ORE-012702, OR-011648-A]

Proposed Continuation of Withdrawals; Oregon

Correction

In notice document 88-10656 beginning on page 16917 in the issue of Thursday, May 12, 1988, make the following correction:

On page 16917, in the third column, under "Rogue River National Forest", the last line should read "T. 40 S., R. 1 E., W.M., secs. 16 and 21."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Outer Continental Shelf Minerals and Rights-of-Way Management, General; and Outer Continental Shelf Orders for All Regions of the Outer Continental Shelf

Correction

In rule document 88-6532 beginning on page 10596 in the issue of Friday, April, 1, 1988, and corrected at page 12227 in the issue of Wednesday, April 13, 1988, make the following correction:

§ 250.45 [Corrected]

On page 10712, in § 250.45(e), in the third column, in the table, in the first entry, "25" should appear under the column designated "3".

BILLING CODE 1505-01-D

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP); Deadline for Acceptance of Petitions Requesting Modification of List of Articles Eligible for Duty-Free Treatment Under the GSP and Requests to Review the GSP Status of Beneficiary Developing Countries

Correction

In notice document 88-7585 beginning on page 11580 in the issue of Thursday, April 7, 1988, make the following correction:

On page 11581, in the first column, in the first complete paragraph, in the eighth line, after "will" insert "not".

BILLING CODE 1505-01-D

VETERANS ADMINISTRATION

38 CFR Part 4

Systemic Diseases, Temporary Total Evaluations Based on Periods of Hospitalization or Surgery, Regular Scheduler Assignment of a Total Evaluation Based on Total Industrial Impairment

Correction

In proposed rule document 88-11272 beginning on page 18099 in the issue of Friday, May 20, 1988, make the following correction:

§ 4.88a [Corrected]

On page 18101, in the third column, in § 4.88a, in diagnostic code 6318, in the fourth line, "military" should read "miliary".

BILLING CODE 1505-01-D

செவ்வாய்க்கிழமை

Department of Transportation

14 CFR Part 39

Airworthiness Directives; Boeing Model 737 Series Airplanes; Notices of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-66-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to supersede two existing airworthiness directives (AD), applicable to certain Boeing Model 737 series airplanes, which currently require an external inspection of the skin at certain fuselage lap joints for cracks, corrosion, and/or delamination, and repair, if necessary. This action would retain the requirements of the currently existing AD's, but would increase the area to be inspected and intensify the methods of inspection. This proposal is prompted by reports of numerous cracks found during inspections of airplanes that have accumulated more than 40,000 landings. This condition, if not corrected, could result in rapid decompression of the airplane.

DATES: Comments must be received no later than July 24, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-66-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest

Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Ms. Barbara J. Baillie, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing such FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-66-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On October 5, 1987, the FAA issued AD 87-21-08, Amendment 39-5752 (52

FR 38395; October 16, 1987), which requires inspection for cracking, and repair or replacement, if necessary, of the skin along the upper row of fasteners of certain fuselage lap joints. That action was prompted by inspection reports that identified extensive skin cracking found adjacent to lap splice fasteners, and delamination of fuselage tearstraps found in these same areas. This condition, if not corrected, could lead to rapid depressurization of the airplane.

Further, following a recent accident involving a Boeing Model 737-200 series airplane in which a large portion of the upper fuselage separated from the airplane, the FAA issued telegraphic AD T88-10-51 on May 4, 1988, to require certain inspections at all fuselage lap joints.

Recent inspection reports indicate that cracking has been found in several of the longitudinal skin splices where delamination of the cold bond has deteriorated. In addition, cracking in the skin along the stringer (S) 17 crease beam has been reported. Both of these cracking scenarios involve delamination that results in a knife edge condition of countersunk rivets in the skin, which, in turn, may result in early fatigue crack initiation. Disbonded doublers and lap joints, as well as corrosion between skin and doublers, have been reported on several airplanes.

These conditions may exist on airplanes manufactured with the early hot bonded doublers (line number 001 through 464) and the cold bonded lap joint (line number 001 through 291). There has been no service experience to indicate that problems exist with the improved hot bonded doublers beginning at line number 465. It should be noted that, although there have been reports of corrosion and delamination of the skin and doubler at the lap joints of airplanes between line number 292 and 464, there have been no fatigue cracking

reported. These airplanes are suspect, however, due to the similarity in the failure mode and the reports of delamination.

The FAA has reviewed and approved Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, which describes inspection and repair procedures for cracking, corrosion, and delamination in the skin at all the fuselage lap joints; and Boeing Service Bulletin 737-53-1089, dated May 10, 1985, which describes inspection and repair procedures for cracking, corrosion, and delamination in the skin along the S-17 crease beam.

Since this condition is likely to exist or develop on other airplanes of the same type design, the FAA proposes to supersede AD 87-21-08 and telegraphic AD T88-10-51, with a new AD which would require inspections of the skin and doublers at all fuselage lap joints between BS 259 and BS 1016, and at S-17 between BS 360 and BS 540 and between BS 727 and BS 927, for cracks, corrosion, and/or delamination, and repair, if necessary, in accordance with the service bulletins previously mentioned.

It is estimated that 100 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2,000 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$8,000,000.

Information collection requirements contained in this regulation have been approved by the Office of Management

and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator,

the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 87-21-08, Amendment 39-5762 (52 FR 38395; October 16, 1987), and Telegraphic AD T88-10-51, issued May 4, 1988, with the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line number 001 through 464, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent rapid decompression of the airplane, accomplish the following:

A. For airplanes line number 001 through 291 accomplish the following:

1. Within the next 500 landings after the effective date of this AD, or prior to the accumulation of 40,000 landings, whichever occurs later, unless previously accomplished within the last 4,000 landings, and thereafter at intervals not to exceed 4,500 landings or 15 months, whichever occurs first; accomplish the following:

a. Perform a high frequency eddy current inspection for cracks of the skin at fuselage lap joints S-4 and S-10 between body station (BS) 259 and BS 1016, in accordance with Boeing Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988.

b. Perform a detailed external visual inspection, using a 10x magnifying glass, of the lap splices listed in paragraph A.1.a., above, and all other lap splices between BS 259 and BS 1016, for cracks and evidence of corrosion or delamination. Inspect for small cracks, bulging skin between fasteners, blistered paint, dished or popped rivet heads, or loose fasteners. Adequate lighting must be used for this inspection. If the paint is irregular or too thick to detect cracks, it must be stripped using an approved chemical stripper.

If cracks or evidence of corrosion or delamination are found in the lap splices at S-14, S-19, S-20, S-24, S-25, or S-26, prior to further flight, perform an eddy current inspection of the entire length of the affected panel for cracks and to determine material loss, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988.

Repair any cracks, corrosion, and delamination found as a result of the inspections required by paragraph A.1.a. or A.1.b., above, prior to further flight (except as permitted by paragraph D., below), in accordance with Boeing Alert Service Bulletin 727-53A1039, Revision 4, dated April 14, 1988.

2. Prior to the accumulation of 80,000 landings or within the next 4 years, whichever occurs first; or within 1 year after the effective date of this AD, whichever occurs later, accomplish the modification described in paragraph E., below.

B. For airplanes line numbers 292 through 464, accomplish the following:

1. Within the next 500 landing after the effective date of this AD, or prior to the accumulation of 60,000 landings, whichever occurs later, unless previously accomplished within the last 4,000 landings, and thereafter at intervals not to exceed 4,500 landings or 15 months, whichever occurs first; perform a detailed visual inspection, using a 10x magnifying glass, of the skin at all fuselage lap joints between body station (BS) 259 and BS 1016 for cracks and evidence of corrosion or delamination. Inspect for small cracks, bulging skin between fasteners, blistered paint, dished or popped rivet heads, or loose fasteners. Adequate lighting must be used for this inspection. If the paint is irregular or too thick to detect cracks, it must be stripped using an approved chemical stripper. If cracks or evidence of corrosion or delamination are found, prior to further flight, perform an eddy current inspection of the entire length of the affected panel for cracks and to determine material loss, as necessary, and repair prior to further flight (except as permitted by paragraph D., below), in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988.

C. For airplanes line number 001 through 464 accomplished the following:

1. Within the next 500 landing after the effective date of this AD, or prior to the accumulation of 40,000 landings, whichever occurs later, unless previously accomplished within the last 4,000 landings, and thereafter at intervals of 4,500 landings or 15 months, whichever occurs first; perform an external detailed visual inspection, using a 10x

magnifying glass, of the skin at S-17 between BS 360 and BS 540 and between BS 727 and BS 927 for cracks and evidence of corrosion or delamination. Inspect for small cracks, bulging skin between fasteners, blistered paint, dished or popped rivet heads, or loose fasteners. Adequate lighting must be used for this inspection. If the paint is irregular or too thick to detect cracks, it must be stripped using an approved chemical stripper. If cracks or evidence of corrosion or delamination are found, prior to further flight, perform an eddy current inspection of the entire length of the affected panel in accordance with an FAA-approved method, and repair in accordance with Boeing Service Bulletin 737-53-1089, dated May 10, 1985.

2. Within the next 2,250 landings or within the next 6 months after the effective date of this AD, whichever occurs first or prior to the accumulation of 40,000 landings, whichever occurs later, unless accomplished within the last 9,750 landings, and thereafter at intervals not to exceed 12,000 landings or 4 years, whichever occurs first; perform an internal visual inspection of all tearstraps (circumferential portion of the bonded waffle doubler which are not mechanically fastened to the skin between BS 259 and BS 1016) for delamination and corrosion. Adequate lighting must be used for this inspection. Inspect for bulges in the doubler, white powder or a thin black line at the edges of the doubler, and missing or dished fasteners. Check for disbond by pushing outward on the skin while attempting to insert a feeler gage between the doubler and skin. If inspection areas are obscured by sealant, dirt, etc., these areas must be cleaned. If disbond or corrosion is found, repair prior to further flight, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, or Boeing Service Bulletin 737-53-1089, dated May 10, 1985, or Boeing Service Bulletin 737-53-1076, dated October 30, 1986, as appropriate.

D. If corrosion, found as a result of the external inspection required by paragraphs A.1. and B.1., above, does not exceed 5% of the skin thickness, conduct an external detailed visual inspection in accordance with paragraph A.1. or B.1., as appropriate, above, at intervals not to exceed 2,250 landings or 6 months, whichever occurs first, until repair is accomplished. If such corrosion exceeds 5% of skin thickness, repair prior to further flight, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, except change thickness reduction allowables to half those currently permitted by the service bulletin. Following such a repair, resume inspections in accordance with paragraph A.1. or B.1., above, as appropriate.

E. Accomplishment of the following two procedures constitutes terminating action for the inspections required by paragraphs A.1., B.1., C.1., and C.2., above.

1. Accomplish the terminating repair at all lap joints, which includes replacing all upper row fasteners with protruding head fasteners and assuring continued functionality of the tearstraps, by the use of mechanical fasteners, in accordance with Boeing Alert Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, except that the

mechanical fasteners are required in all tearstrap bays around the fuselage.

2. Accomplish the preventative modification as described in Boeing Service Bulletin 737-53-1089, dated May 10, 1985, along S-17.

F. Within 15 months after the accomplishment of the procedures described in paragraph E., above, and thereafter at intervals not to exceed 15 months, perform an external visual inspection for corrosion at all lap joints in accordance with Boeing Service Bulletin 737-53A1039, Revision 4, dated April 14, 1988, and on the skin along S-17 in accordance with Boeing Service Bulletin 737-53-1089, dated May 10, 1985. If corrosion is found which does not exceed 5% of the skin thickness, continue to accomplish these inspections at intervals not to exceed 7 months, until repaired. If such corrosion exceeds 5% of the skin thickness, repair prior to further flight in accordance with these service bulletins, as appropriate.

G. Within 1 month after the completion of any inspection required by this AD, submit a report, in writing, including a complete description of the location and size of all cracks, corrosion, and delamination found, along with the aircraft serial number and the number of flight cycles, to the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. Reports of airplanes found to be free of cracks, corrosion, or delamination are also required.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 24, 1988.

Frederick M. Isaac,
Acting Director, Northwest Mountain Region.
[FR Doc. 88-12074 Filed 5-25-88; 2:23 pm]
BILLING CODE 4910-13-M

14 CFR Part 39**[Docket No. 88-NM-67-AD]****Airworthiness Directives; Boeing Model 737 Series Airplanes****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which would require external inspections of the circumferential fuselage splices and internal inspections of the bonded doublers for delamination, cracking, and corrosion. Additionally, it would require an internal corrosion inspection of the lower skin and stringers on airplanes on which a terminating action, in accordance with an existing AD, had been performed. This proposal is prompted by a report of cracking on the circumferential fuselage skin splice on one airplane and several reports of delamination of the bonded doubler. This condition, if not corrected, could result in rapid decompression of the airplane.

DATES: Comments must be received no later than July 24, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-67-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124.

This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Baillie, Airframe Branch, ANM-120S; telephone (206) 431-1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications

should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-67-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The FAA has received numerous inspection reports concerning Boeing Model 737 series airplanes, that have identified several problem areas which necessitate inspection action. Cracking has been found on the circumferential fuselage skin splice at body station (BS) 360 on a Boeing Model 737-200 with approximately 90,000 flight cycles. While the cause of these cracks is still under investigation, evidence indicates that they may have been caused by delamination of a fail-safe bonded doubler that resulted in a knife edge condition of countersink rivets at the splice, which, in turn, could have resulted in early fatigue crack initiation. Disbonded doublers and corrosion between doublers and skin have been reported on several airplanes.

In addition to the areas described above, AD 82-01-09, Amendment 39-4299, currently requires repetitive inspections of the belly skin and stringers on Model 737 series airplanes, until a terminating modification is installed. This terminating modification comprises replacement of affected skin panels. Since the issuance of that AD, the FAA has determined that, following accomplishment of the terminating modification, routine maintenance may not be sufficient to detect additional corrosion in this area. Therefore, the FAA has determined that continuing inspection of this area is necessary in order to ensure detection of possible corrosion of the skin and stringers.

Failure to detect and repair cracks, corrosion, or delamination in the areas identified above could lead to rapid depressurization of the airplane.

FAA has reviewed and approved Boeing Service Bulletin 737-53-1076, dated October 30, 1986, which describes procedures for inspecting the bonded skin and doubler assemblies and Boeing Alert Service Bulletin 737-53A1042, Revision 4, dated November 5, 1982, which describes inspection procedures for the lower lobe hot bonded skin panel and provides repair and replacement instructions.

Since this condition is likely to exist or develop on other airplanes of the same type design, this action would require external inspections of the circumferential fuselage splices and internal inspections of the bonded doublers for delamination, corrosion, and cracks; and inspection of the belly skin and stringers for corrosion; in accordance with the service bulletin previously mentioned, in order to prevent the potential for rapid depressurization of the airplane.

It is estimated that 100 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2,000 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$8,000,000.

Information collection requirements contained in this regulation have been approved by the office of management and budget under the provisions of the paperwork reduction act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact,

positive or negative, on a substantial number of small entities because few, if any, Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, line numbers 001 through 464, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent decompression of the airplane, accomplish the following:

A. Within 500 landings after the effective date of this AD, or prior to the accumulation of 40,000 landings, whichever occurs later, unless previously performed within the past 4,000 landings, accomplish the following:

1. Perform a detailed external visual inspection, using a 10x magnifying glass, of the bonded skin panels, excluding tearstrap areas (circumferential portion of the bonded waffle doubler which are not mechanically fastened to the skin between BS 259 and BS 1016) identified in Boeing Service Bulletin 737-53-1076, dated October 30, 1986, with emphasis on the circumferential splices between BS 259 and BS 1016, for cracks and evidence of corrosion or delamination. Inspect for small cracks, bulging skin between fasteners, blistered paint, dished or popped rivet heads, or loose fasteners. Adequate lighting must be used for this inspection. If the paint is irregular or too thick to detect cracks, it must be stripped using an approved chemical stripper.

2. In addition to the detailed visual inspection above, perform a high frequency eddy current inspection for cracks from S-10R to S-10L in accordance with an FAA-

approved method, along the most forward and most aft rivet row of each circumferential splice.

If no cracks, corrosion, or delamination are found as a result of the inspections required by paragraph A.1. or A.2., above, repeat all visual and eddy current inspections at intervals not to exceed 4,500 landings or 15 months, whichever occurs first.

B. In areas where evidence of corrosion, delamination, or cracks are found as a result of the inspections required by paragraph A., above, accomplish the following:

1. If corrosion depth found by the external inspections does not exceed 5% of skin thickness, conduct the repetitive external detailed visual inspections required by paragraph A., above, at intervals not to exceed 2,250 landings or 6 months, whichever occurs first, until repair is accomplished. Following the accomplishment of such a repair, continue to inspect at intervals not to exceed 4,500 landings or 15 months, whichever occurs first, in accordance with paragraph A., above.

2. If corrosion depth exceeds 5% repair prior to further flight, in accordance with Boeing Service Bulletin 737-53-1076, dated October 30, 1986. Following the accomplishment of such a repair, continue to inspect at intervals not to exceed 4,500 landings or 15 months, whichever occurs first, in accordance with paragraph A., above.

C. Within the next 4,500 landings or 15 months, after the effective date of this AD, whichever occurs first or prior to the accumulation of 40,000 landings, whichever occurs later, unless previously performed within the past 7,500 landings, perform an internal inspection of the bonded doublers except for tearstraps (circumferential portion of the bonded waffle doubler which are not mechanically fastened to the skin between BS 259 and BS 1016) for evidence of corrosion or delamination in accordance with Boeing Service Bulletin 737-53-1076, dated October 30, 1986. Using adequate lighting, inspect for bulges in the doubler, white powder or a thin black line at the edges of the doubler, and missing or dished fasteners. Inspect for debond by pushing outward on the skin while attempting to insert a feeler gage between the doubler and skin. In addition, perform a general internal visual inspection for corrosion of the skin, frames, and stringers between BS 259 and BS 1016. If inspection areas are obscured by sealant, dirt, etc., these areas must be cleaned. In areas where no evidence of corrosion or delamination is found, repeat the inspection at intervals not to exceed 12,000 landings or 4 years, whichever occurs first. In areas where evidence of corrosion or delamination is found, repair in accordance with the above service bulletin prior to further flight. Following such a repair, continue to inspect at intervals not to exceed 12,000 landings or 4 years, whichever occurs first.

D. For airplanes on which the terminating action for AD 82-01-09 has been accomplished: Within the next 4,500 landings after the effective date of this AD or prior to the accumulation of 40,000 landings, whichever occurs later, unless previously accomplished in the past 7,500 landings; perform an internal corrosion inspection of the lower skin and stringers, in accordance with Boeing Alert Service Bulletin 737-53A1042, Revision 4, dated November 5, 1982. Repeat this inspection at intervals not to exceed 12,000 landings or 4 years, whichever occurs first. If corrosion is found, repair prior to further flight, in accordance with the Boeing Model 737 Structural Repair Manual.

E. Within 1 month after the completion of any inspection required by this AD, submit a report, in writing, of a complete description of the location and size of all cracks, corrosion, and delamination found, along with the aircraft serial number and the number of flight cycles, to the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. Reports of airplanes found to be free of cracks, corrosion, or delamination are also required.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 24, 1988.

Frederick M. Isaac,
Acting Director, Northwest Mountain Region.
[FR Doc. 88-12075 Filed 5-25-88; 2:23 pm]

BILLING CODE 4910-13-M

Best Deal Federal Trade

Tuesday
May 31, 1988

Part III

Federal Trade Commission

16 CFR Part 453

Funeral Industry Practices Trade
Regulation Rule; Notice of Proposed
Rulemaking

FEDERAL TRADE COMMISSION

16 CFR Part 453

Funeral Industry Practices Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice announces the Commission's decision to initiate the rulemaking proceeding to review the Funeral Industry Practices Trade Regulation Rule, 16 CFR Part 453 (the "Funeral Rule" or "Rule"), mandated by § 453.10 of the Rule. That section states that the Commission shall initiate a rulemaking amendment proceeding, four years after its effective date, to address whether the Funeral Rule should remain in effect unchanged, or should be amended or repealed. The Commission has made no determination on these issues; all of the Rule's requirements will be reexamined during the proceeding.

This notice sets out the rulemaking procedures to be followed, reference to the legal authority under which this amendment proceeding is proposed, a statement of the Commission's reasons for proposing this review, a list of specific questions and issues upon which the Commission particularly desires written and oral comment, an invitation for written comments, and instructions for prospective witnesses and other interested persons who desire to present oral statements or otherwise participate in this proceeding.

DATES: Written comments must be submitted on or before August 30, 1988.

Notification of interest in questioning witnesses must be submitted on or before July 30, 1988.

Prepared statements of witnesses and exhibits, if any, must be submitted on or before October 3, 1988 for witnesses at the Washington, DC hearings, November 1, 1988 for witnesses at the Chicago, Illinois hearings and December 1, 1988 for witnesses at the San Francisco, California hearings.

Public hearings commence at 9:30 a.m. on November 7, 1988 in Washington, DC, at 9:30 a.m. on December 5, 1988 in Chicago, Illinois and at 9:30 a.m. on January 9, 1989 in San Francisco, California.

ADDRESSES: Written comments, notifications of interest, prepared statements of witnesses and exhibits should be submitted in five copies to Henry B. Cabell, Presiding Officer, Federal Trade Commission Washington, DC, 20580, 202-326-3642. The public hearings will be held in Room 332

Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC, in Room 1437 Chicago Regional Office of the Federal Trade Commission, 55 East Monroe Street, Chicago, Illinois and in Room 570 San Francisco Regional Office of the Federal Trade Commission, 901 Market Street, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: Matthew Daynard, Ra'ouf M. Abdullah, or Richard Kelly, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC, 20580, 202-326-3291, 202-326-3024, or 202-326-3304.

SUPPLEMENTARY INFORMATION: The Funeral Rule declares it an unfair or deceptive act or practice for funeral providers to: (1) Fail to furnish price information to funeral consumers; (2) require consumers to purchase items they do not desire to buy; or (3) embalm deceased human remains for a fee without authorization. The Rule further declares it a deceptive practice for funeral providers to misrepresent: (1) Requirements for embalming, cremations, and grave vaults or grave liners; (2) legal and cemetery requirements; (3) preservation and protection capabilities of funeral goods and services; or (4) cash advance charges for items obtained by the funeral provider on the consumer's behalf. To prevent these practices and to correct consumers' misimpressions, the Rule sets forth the following remedial requirements.

The Rule requires that funeral providers: (1) Disclose price and other information over the telephone to persons who call the funeral home and ask about its offerings or prices of funeral goods and services; (2) disclose written price information by means of a general price list ("GPL"), casket price list ("CPL"), and an outer burial container price list ("OBC-PL") to persons who inquire in person about funeral arrangements or the prices of funeral goods and services;¹ (3) give purchasers a written statement, after they have selected funeral goods and services, containing the prices for each of the items selected, the total price for the funeral arrangements selected, price estimates or actual costs, if known, for cash advance items, and any legal, cemetery or crematory requirements that compel the purchase of any items or services for the particular funeral; (4)

¹ The Rule permits providers to incorporate the information from the casket and outer burial container price lists in the general price list. This combined list also must be offered to persons who inquire in person about funeral arrangements or the prices of funeral goods and services.

make truthful representations about legal and other requirements that compel the purchase of particular items or services; (5) allow consumers to select and purchase only those goods and services they desire (instead of offering goods and services only in predetermined packages); (6) seek to obtain express approval before embalming the deceased for a fee; (7) make truthful representations about the preservative and protective value of funeral goods and services; (8) disclose that they charge a fee for obtaining cash advance items, if that is the case; and (9) make unfinished wood boxes or alternative containers available for direct cremation, if the provider offers direct cremation.

The Funeral Rule was promulgated on September 24, 1982, and became fully effective on April 30, 1984.² The Commission's decision to promulgate the Rule was subsequently affirmed in *Harry & Bryant Co. v. FTC*.³ Having been duly promulgated, the Funeral Rule enjoys a presumptive validity. The Commission would require substantial evidence in the rulemaking record to justify a determination to amend or repeal the Rule.⁴

² The Rule had two effective dates. Those portions of the Rule that prohibit certain oral or written representations became effective on January 1, 1984. 48 FR 45537 (Oct. 6, 1983). The remainder of the Rule—the portions imposing affirmative obligations on funeral providers—became effective on April 30, 1984. Id.

N.B. The effective date of § 453.3(b)(1)(ii) of the Rule was changed from January 1, 1984 to April 30, 1984. 49 FR 564 (Jan. 5, 1984).

³ 726 F.2d 993 (4th Cir. 1984), cert. denied, 489 U.S. 820 (1984). The Court held that the Funeral Rule did not, as alleged, exceed the Commission's authority under sections 5 and 18 of the FTC Act and did not violate the funeral directors' First Amendment rights of commercial free speech.

⁴ Under the requirements of section 18 of the FTC Act, 15 U.S.C. 57a and the Administrative Procedure Act, 5 U.S.C. 553 et seq. and 701 et seq., the existence of a duly promulgated rule reflects the status quo, and any change must be justified by a reasonable basis in the record. See *Motor Vehicle Mfrs. Ass'n v. State Farm Mut.*, 463 U.S. 29, 40-45 (1984) (the APA requires an administrative agency to provide a reasoned analysis for adopting, modifying or rescinding a regulation); *Ass'n of National Advertisers, Inc. v. FTC*, 617 F.2d 611, 614-615 (D.C. Cir. 1979) (section 18 rulemaking requirements complement, and, to an extent, modify the APA requirements); *Atchison, Topeka & Santa Fe Railway Co. v. Wichita Bd. of Trade*, 412 U.S. 800, 807-808 (1973) (once an agency has settled on a course of action such as a regulation, the agency must set forth a reasonable basis in the rulemaking record for departing from it); *Center for Auto Safety v. Peck*, 751 F.2d 1336, 1343 (D.C. Cir. 1985) (the same standard applies whether the agency is enacting a new rule, or revoking or modifying an old one).

The evidence gathered to date in anticipation of this review is reported in two staff reports to the Commission, dated April 7, 1988 ("BCP Staff Report") and April 1988 ("An Analysis of the Funeral Rule Using Consumer Survey Data on the Purchase of Funeral Goods and Services", or "BE Staff Report") and in two published reports of consumer surveys—a 1981 "baseline" study and a 1987 "replication" study—conducted at staff's request.

Copies of the BCP and BE Staff Reports, the baseline and validation study reports (entitled "FTC, Baseline and Follow-up Studies for Evaluating the Effect of the Funeral rule, Final Report," July 1982) and the replication study report (entitled "Report on the Survey of Recent Funeral Arrangers" FTC, April 1988) may be obtained in person or by mail free of charge from: Public Reference Room (Room 130), Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

Section A. Statement of the Commission's Reasons for the Proposed Review

Section 453.10 of the Funeral Rule requires the Commission to initiate this review proceeding. That section states:

No later than four years after the effective date of this rule, the Commission shall initiate a rulemaking amendment proceeding pursuant to section 18(d)(2)(b) (of the FTC Act) ⁶ to determine whether the rule shall be amended or terminated. The Commission's final decision on the recommendations of this proceeding shall be made no later than eighteen months after the initiation of the proceedings.

The Commission announced in its Statement of Basis and Purpose for the Funeral Rule ("SBP") that the purpose of this unique provision was to determine, through an early review, whether there is a need to continue the Rule after it has had a fair opportunity to correct the industry problems it was adopted to remedy.⁶ The Commission recognized that the Rule's effects may be evidenced more slowly than in other industries, because a funeral is an infrequent consumer purchase.⁷ The Commission nonetheless determined that an early review was necessary to consider (a) whether the Rule appears to be working as expected in reducing barriers to price competition and increasing consumer

choice, (b) whether some modification to the Rule is necessary to facilitate those benefits, and (c) whether repeal is warranted as a result of substantially reduced marketplace problems.⁸

At this time, the Commission has not determined whether any changes to the Rule are warranted, or whether the Rule should be retained as is or repealed. Instead, all of the Rule's provisions, including the issue of repeal, are open to debate and inquiry during the rulemaking proceeding. The Commission's decision on these issues shall be based on the rulemaking record viewed as a whole. At this time, the staff reports present evidence that, if the Rule overall warrants retention, several of its provisions may warrant additional scrutiny and may need to be changed. However, the Commission is required to demonstrate that any changes (or revocations) are based on substantial evidence in the rulemaking record.

To assess the Rule's market impact, Commission staff has to date gathered and reviewed information from the following primary sources. In 1981, staff requested Market Facts, Inc., an independent market research organization, to conduct a "baseline" survey ("BLS") of persons who had recently arranged a funeral. The study, which measured purchasers' knowledge of the funeral market and gauged their experience in arranging the recent funeral, was designed to provide "baseline" data on the incidence of those funeral industry practices addressed by the Funeral Rule.⁹ In 1987,

Market Facts conducted a "replication" study ("RS") of recent funeral arrangers designed to permit comparisons with the earlier study so that the impact of the Rule on consumers' purchasing behavior and knowledge of the funeral market, their funeral expenses, and industry practices and prices could be assessed. Commission staff has reviewed and analyzed the data from these two surveys, which, to our knowledge, comprise the only systematic, empirical information available on the impact of the Rule nationwide.¹⁰

Staff has also reviewed the responses to the Commission's Advance Notice of Proposed Rulemaking ("ANPR"), which was published in the Federal Register on December 9, 1987.¹¹ The ANPR sought public comment on how the Rule has affected consumers, funeral providers and others, and on what changes, if any, should be made to the Rule. During the comment period, 324 comments were received from consumers and consumer groups, industry members and observers, and state officials. Commission staff also has reviewed current and prior state laws regulating the funeral transaction to assess whether states have, over time, adopted the protections afforded by the Funeral Rule. The following discussion sets forth the most salient information presented in the staff reports, including suggestions for changes to the Rule made by ANPR commenters.

1. Overall Survey Results

The staff reports present evidence, based on the consumer surveys, that suggests that the Funeral Rule's requirements have not increased consumer shopping or reduced overall consumer expenditures for funerals, although the reports do indicate that more consumers are selecting cremation as the final form of disposition. The reports also present evidence that a majority of funeral providers are complying with most of the Rule's individual requirements, but are not simultaneously complying with three of the Rule's most important provisions.¹²

¹⁰ Respondents for these studies were drawn from the population of Market Facts' Consumer Mail Panel, a national sample of more than 220,000 (155,000 in 1981) households that have agreed to respond to mail questionnaires, telephone surveys, and other tests on a continuing basis. From a total pool of available households, balanced national samples were drawn to parallel census data with respect to selected social and demographic factors.

¹¹ 52 FR 46706 (1987).

¹² Those provisions require funeral providers to: (1) Provide a general price list at the beginning of discussion of funeral arrangements or the selection of funeral goods and services; (2) give consumers a

⁶ *Id.*

⁹ Market Facts also conducted a validation follow-up study of 250 respondents to the baseline study because it appeared that the baseline study results contradicted much of the rulemaking evidence presented by consumer groups, consumers, and industry members in three areas: (1) Consumers' receipt of funeral price information over the telephone; (2) consumers' receipt of itemized prices and final statements at the funeral home; and (3) consumers' receipt of requests for advance permission to embalm. The follow-up results showed less than a 55% consistency response rate to the key questions in those three areas, and much higher rates in all other areas of the study that were re-tested. Upon its review of the baseline and validation results, the Commission staff, in conjunction with an independent survey analysis expert, concluded that the baseline results in those three areas were subject to serious qualification and differing interpretation. See Memorandum from Funeral Rule Staff to Commission, "Impact Evaluation Survey, Funeral TRR" (July 15, 1982). The Commission upon its review of staff's analysis decided not to reopen the rulemaking record to consider the baseline results; its decision was subsequently upheld in *Harry & Bryant Co. v. FTC* against a challenge of abuse of discretion. 726 F.2d 993, 996 (4th Cir. 1984).

⁶ Section 18(d)(2)(B) of the FTC Act states, in part: A substantive amendment to, or repeal of, a rule promulgated under subsection (a)(1)(B) shall be prescribed, and subject to judicial review, in the same manner as a rule prescribed under such subsection.

⁷ 47 FR 42260, 42299 (Sept. 24, 1982).

⁸ *Id.*

The study results further indicate that: (1) Consumers who patronize funeral providers who comply with the Rule spend no less on their funeral arrangements; (2) consumers who receive the Rule-required price lists spend no less on funerals; (3) the proportion of consumers receiving some form of timely price information at the funeral home has increased; (4) purchasers who receive timely price information at the funeral home (but not necessarily a Rule-required price list) spend significantly less on funeral arrangements; and (5) funeral home misrepresentations have decreased somewhat and consumer knowledge about funeral requirements and about funeral goods and services has increased slightly. The Commission will consider these results in assessing whether the Rule should be repealed or retained. Comment on the study findings in requested below.

2. Evidence on Specific Rule Requirements

Telephone Disclosure Requirements

The Rule requires funeral providers to tell persons who call and ask about prices, terms or conditions of funeral arrangements or specific goods and services that price information is available over the telephone. The Rule further requires that providers must give any price information requested that is readily available. The purpose of these provisions was to ensure that consumers could obtain price information easily before selecting a funeral provider.

Some ANPR comments suggest that telephone disclosures are unnecessary and impractical, and the telling consumers that price information is available over the telephone offends some consumers. One industry trade group suggests that the Rule should allow funeral providers to respond to telephone requests for price information by means other than over the telephone, such as by mail, if they choose. Staff, on the other hand, believes that these suggestions for changes to the telephone disclosure provisions require an evaluation of whether individual consumers are generally aware of their right to ask for and receive price information over the telephone. The Commission seeks further comment on this question. The BLS and RS data present evidence that few individual consumers use the telephone to comparison shop among funeral homes

sufficiently itemized statement of goods and services selected at the end of the arrangements conference; and (3) make no misrepresentations about casket for cremation or embalming requirements.

or to seek price information. The study results also provide evidence that those consumers who do request price information over the telephone generally receive it.

Other ANPR commenters indicate that various consumer organizations and news reporters rely on the Rule's requirement that price information be given over the telephone to compile and publish comparative reports of local funeral home prices. Another commenter suggests that the telephone is unsuitable for discussions about funeral prices, and that providers should be permitted to provide requested price information by means other than over the telephone, such as by mail, if appropriate. The Commission seeks comment on whether the Rule's affirmative telephone disclosure requirement is accomplishing its intended purposes. In particular, if this provision is not accomplishing its purposes, the Commission solicits comments on whether the provision should be modified or repealed.

Written Price Disclosure Requirements

The Rule requires funeral providers to give consumers who inquire in person about funeral arrangements or prices one or more price lists that show the itemized prices for the following goods and services: direct cremation, immediate burial, forwarding/receiving remains, acknowledgment cards, use of automobile equipment, caskets and alternative containers, embalming, outer burial containers, preparation of the body, professional services of the funeral director and staff, use of facilities, and transportation of the deceased. The Rule does not require a specific format for these lists. Providers must offer these lists to consumers upon beginning discussion of funeral arrangements or the selection of funeral goods and services (general price list) or before the goods are shown (casket and outer burial container price lists). Consumers can keep the general price list.

The lists must also contain several disclosures regarding consumers' right to purchase only those goods and services they desire, and concerning the need for embalming and other potentially required goods and services. A principal purpose of all of these requirements is to avoid economic injury that consumers might incur as the result of either purchasing items or services they may not want or use or paying higher than competitive prices for those items and services.

The BE staff report indicates that the 1987 RS results provide no evidence that

the offering to consumers of the rule-required price lists reduce consumers' overall expenditures for funerals.¹³ That data indicate that consumers who received the lists spent no less on their arrangements than those who did not receive them. In addition, the results also provide evidence that purchasers who received timely price information that was not necessarily a rule-required price list spent significantly less for their arrangements; comparison with the 1981 BLS results indicates that the proportion of consumers receiving some type of oral or written price information early at the funeral home has increased. The RS results also present evidence that most consumers who receive the price lists say they are important in making selections of goods and services, and that most consumers keep the lists when they are offered by providers.

Some ANPR commenters say that price lists may not be useful to consumers because they are confusing. Several commenters suggest that the Rule should require a standard format for the general price list to correct that problem. Other commenters suggest that the timing, availability and itemization requirements regarding the general price list pose difficulties for providers, particularly because the offering of price lists may offend consumers who do not wish to discuss prices at the time the list is given to them. Two commenters suggest that, to remedy these alleged problems, providers should only be required to make the general price list available at the funeral home upon beginning discussion of prices or the selection of goods and services; consumers who make known to the provider their desire to keep the list would be able to do so. Several commenters further suggest that the Rule should permit providers to include a separate, non-declinable basic facilities charge on the general price list. Still other ANPR commenters raise the question whether the Rule's listing requirements cause providers to charge for items they might provide to consumers at no cost. The Commission is particularly interested in receiving comment on issues related to the efficacy of the required price lists, and poses several questions in Section C. below to help focus that comment.

Misrepresentation Provisions. The Rule prohibits funeral providers from misrepresenting that state or local law requires consumers to purchase embalming, caskets for cremation, grave

¹³ The Commission takes no position at this time on the findings in the BE Staff Report and particularly requests comment on that Report.

liners or grave vaults, or any other funeral goods or funeral services. The Rule also prohibits providers from misrepresenting the preservative or protective value of funeral goods and services and from misrepresenting whether consumers will be charged for services in obtaining cash advance items. The Rule requires written and oral disclosures intended to prevent misrepresentations and to correct consumers' misimpressions.

The BLS and RS results present evidence that misrepresentations prohibited by the Rule cause consumers to purchase goods and services they otherwise might not buy. This survey data also indicate that provider misrepresentations, which the results do not show to be currently widespread, have decreased and consumers' knowledge about funerals and funeral goods and services has increased somewhat. On the other hand, the survey results and other information in the ANPR comments present evidence that some proscribed misrepresentation is still occurring, and that many consumers still incorrectly believe that embalming is always required by law and that sealed caskets preserve human remains for an indefinite time. The Commission seeks comment on whether the misrepresentation provisions of the Rule should be modified or repealed.

Other information presented by the ANPR comments indicates that the disclosure regarding direct cremations, required by § 453.3(b)(2) of the Rule, may be confusing and inapposite where the provider does not stock unfinished wood boxes, but offers other alternative containers for use in direct cremations as permitted by the Rule. One ANPR commenter suggests that, to correct this situation, the disclosure should delete references to an unfinished wood box so that no distinction is made, for purposes of the Rule, between an unfinished wood box and other types of alternative containers.

Anti-Tying Provisions. The Rule prohibits funeral providers from requiring consumers to purchase unwanted goods and services as a condition of obtaining other items, except as required by law or permitted by the Rule. The Rule also requires itemization of funeral components and forbids providers from requiring finished caskets for cremation. The Rule further requires providers who arrange direct cremations to make available unfinished wood boxes or alternative containers for use in those dispositions.

The 1987 study results discussed earlier in the section regarding price lists provide no evidence that the specific, rule-required itemization

reduces consumers' total funeral bill. The results do present evidence, however, that consumers spend less when they receive timely price information in other forms. And the results provide further indication that consumers find the price lists helpful and keep them when they are offered. The BCP staff report presents evidence that the proportion of cremation purchasers buying caskets has significantly decreased since 1981. Also, the 1987 results indicate that consumers are more knowledgeable about casket for cremation requirements.

Also, the BCP staff report discusses some evidence presented in the ANPR comments suggesting that the effectiveness of the anti-tying provisions may be weakened by some providers who charge high handling fees when consumers supply their own merchandise, such as caskets purchased from third-party casket sellers. Other ANPR commenters state that handling fees are necessary for providers to recoup overhead costs and profits lost on the sale of the casket. The Commission seeks comment below on the handling fee and other issues concerning the rule's anti-tying provisions.

Embalming Provisions. The Rule requires funeral providers to seek to obtain prior, express approval before charging consumers for embalming services. The Rule further prohibits providers from misrepresenting the need for embalming and requires them to disclose in writing the reasons why it is necessary if they represent to consumers that embalming is non-declinable.

The BCP staff report presents some evidence from the RS study that providers request prior approval for embalming in about half of the cases, and that about two-thirds of consumers who purchase embalming authorize it at some point in the transaction. The RS results, when compared to the BLS results, further suggest that embalming in arguably inappropriate cases—direct cremations or cremations with services where the body is not present—have decreased since 1981.

The BCP staff report discusses the views expressed by some ANPR commenters that the prior approval provision is difficult and impractical for providers, and that efforts to obtain approval can often be upsetting to consumers, particularly where the provider is removing the body from a hospital or nursing home. Two commenters suggest that, to remedy those alleged problems, the Rule should be changed to require only that providers obtain approval, before or after the service is performed, in order

to charge a fee. Some information is presented in the comments that such a change may not result in economic injury to consumers, but might cause potentially severe emotional injury to religious groups or others who may not want embalming performed under any circumstances. The Commission is particularly interested in receiving comment on this issue.

Definition of Funeral Provider. The Rule covers only "funeral providers," defined in the Rule as any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public. The Rule defines funeral goods as those goods sold directly to the public for use in connection with funeral services. The Rule defines funeral services as: (1) Those services used to care for and prepare deceased human bodies for burial, cremation, entombment or other final disposition; and (2) those services used to arrange, supervise or conduct a funeral ceremony or the final disposition of human bodies. Persons or firms that sell or offer to sell only funeral goods or only funeral services are not considered funeral providers for purposes of the Rule and thus are not subject to its requirements and prohibitions. For example, parties that sell only caskets or outer burial containers (grave liners and vaults) are not required under the Rule to disclose price information because they are not subject to its provisions.

The BCP staff report discusses some ANPR comments reporting alleged unfair or deceptive acts or practices by cemeteries, crematories and other sellers of funeral goods or funeral services not currently subject to the Rule. Other ANPR commenters suggest that funeral providers covered by the Rule may be placed at a competitive disadvantage because their actual or potential competitors are not subject to the Rule's requirements. Several ANPR commenters suggest that, to remedy this reported situation, the Rule's coverage should be expanded to include all providers that sell either funeral goods or funeral services. The Commission requests comment on the extent to which these reported practices are occurring and whether the Rule should cover these other providers.

The BCP Staff Report considered suggestions made in the ANPR comments that the rulemaking should include issues concerning minimum standards for pre-need contracts and cremation practices, and state pre-need regulations. The staff recommended against inclusion of these issues in the rulemaking as beyond the scope of the

mandate set forth in § 453.10 of the Funeral Rule. The Commission concurs with this recommendation and, therefore, has not included those issues in the questions for comment.

Funeral Expenses and Funeral Prices. The BE staff report presents evidence, based on the BLS and RS, that consumers' total expenditures for funerals have increased more than the general rate of inflation ("real expenses") between 1981 and 1987, by as much as 9%. BE staff reports, however, that the study data cannot resolve whether that increase is due to an increase in real prices for funeral goods and services, or to an increase in the quantity (or quality) of items purchased, or some combination of those factors.

The ANPR comments present other information, based on data compiled by the Federated Funeral Directors of America, that real prices for funerals may have increased by as much as 4.2%–7.6% since December, 1983. Several ANPR commenters presented views and some data that funeral prices have increased since the Rule's promulgation; some attribute the price rise to the Rule, while others suggest that it may be due, at least in part, to the fact that providers may be "trading up" consumers so that purchasers buy additional or more expensive items. Other commenters present views that price increases are not harmful, because consumers are now exercising their informed choice. The Commission in its Statement of Basis and Purpose for the Funeral Rule recognized that funeral providers might decide to raise prices in response to the Rule's itemization requirements.¹⁴ The Commission is particularly interested in receiving comment on the relation between any increases in real expenses for funerals and real funeral prices.

Compliance Issues. In judging whether the Funeral Rule warrants retention or repeal, the Commission will consider whether the Rule itself is sufficiently in place in the market. That is, are enough providers substantially complying with the Rule's requirements to permit accurate judgments about the costs and benefits of the Rule?

The staff reports present evidence from the 1987 RS data that 31% (and perhaps less) of funeral providers are simultaneously providing a general price list early in the arrangements conference and a sufficiently itemized statement of items selected, and making no misrepresentations about embalming and casket for cremation requirements, in accordance with the Rule. Viewing

each Rule provision individually, the data also indicate that a majority of funeral providers are complying with most of the Rule's individual requirements. The data further indicate, however, that about one-quarter of providers may be giving the general price list to consumers at the beginning of discussion of funeral arrangements, as required by the Rule. Other, less formal surveys presented in the ANPR comments suggest varying rates of provider compliance with individual Rule provisions. The Commission seeks comments below on whether the 1987 replication study data accurately reflect the actual level of industry compliance with the Rule, and on what level of compliance is sufficient to permit judgments about the costs and benefits of the Rule.

State Regulations. The Commission recognizes that state action to prevent any industry abuses may have benefits over regulation at the Federal level. However, when the Commission considered promulgation of the Rule in 1982, few states had adopted any of the individual provisions contained in the proposed Rule, and it appeared that no state had enacted a regulatory price disclosure scheme similar to the proposed Rule.¹⁵ Staff has conducted a review of current state regulations to determine whether any significant changes in state regulation have occurred since that time. Staff reports that, although as many as thirteen (13) to twenty-five (25) states have adopted at least one of the Rules salient provisions, the majority of the states still have not incorporated into their laws a regulatory scheme similar to the Funeral Rule.

Conclusion. The Commission has carefully considered the staff reports and the comments received in response to the Advance Notice of Proposed Rulemaking. Based on § 453.10 of the Funeral Rule and the evidence presented to date, the Commission believes that the initiation of a rulemaking amendment proceeding would be in the public interest.

The public is advised that the Commission has not adopted any findings or conclusions of the staff. All findings in this proceeding shall be based solely on the rulemaking record. Accordingly, the Commission invites comment on the issues raised by the staff reports and the evidence presented to date.

The Commission's Rules of Practice shall govern the conduct of the rulemaking proceeding, except that, to

the extent that this notice differs from the Rules of Practice, the provisions of this notice shall govern. This alternative form of proceeding is adopted in accordance with § 1.20 of those rules (16 CFR 1.20).

Section B. Invitation to Comment

All interested persons are hereby notified that they may submit data, views, or arguments on any issue of fact, law or policy which may have bearing upon the Rule review. Such comments may be either in writing or orally. Written comments will be accepted until August 30, 1988 and should be addressed to Henry Cabell, Presiding Officer, Federal Trade Commission, Washington, DC 20580, 202 326-3642. To assure prompt consideration, comments should be identified as "Funeral Rule Review Rulemaking Comments." Please furnish five copies of all comments. (Instructions for persons wishing to present their views orally are found in Sections E. and F. of this notice).

While the Commission welcomes comments on any issues which you feel may have bearing upon the proposed Rule review, questions on which the Commission particularly desire comments are listed in Section C. below. All comments and testimony should be referenced specifically to either the Commission's questions or the section of the Funeral Rule being discussed. Comments should include reasons and data for the position. Comments opposing retention of the Rule or specific provisions should, if possible, suggest a specific alternative. Proposals for alternative regulations should include reasons and data that indicate why the alternatives would better serve consumers than the Funeral Rule. Comments should include a full discussion of all the relevant facts and be based directly on firsthand knowledge, personal experience or general understanding of the particular issues addressed by the proposed Rule review.

The Commission emphasizes that the purpose of soliciting comments on the various issues is to determine whether the provisions of the Rule are operating as expected, and whether they have achieved the objectives and benefits envisioned by the Commission at the time they were enacted. Accordingly, the Commission requests commenters to provide information and data in the form of surveys, expert testimony, or anecdotal experience that reflects actual experience with the operation of the provisions of the Rule. Comment on the BE Staff Report's econometric analysis would particularly be appreciated.

¹⁴ SBP at 42281.

¹⁵ SBP at 42289, n. 95.

Section C. Questions and Issues

The Commission has decided to employ a modified version of the rulemaking procedures specified in § 1.13 of the Commission's Rules of Practice, proceeding with a single Notice of Proposed Rulemaking and the "no designated issues" format. Set forth below is a list of specific questions and issues upon which the Commission particularly desires comment and testimony. The list of questions is not intended to be a list of "disputed issues of material fact that are necessary to resolve," and any right to cross-examine will be determined with reference to the criteria set forth in the Commission's Rules of Practice.

Interested persons are urged to consider carefully the following questions. The Commission retains its authority to promulgate a final rule which differs from the current Rule in ways suggested by these questions and based upon the rulemaking record.

1. Should the Commission retain the Rule unchanged? Should the Commission retain the Rule but change some of its provisions? If so, which of its provisions should be changed, and how should they be changed? Whether you support or oppose retention, the Commission will give more weight to those comments that provide a statement of the costs and benefits to consumers and funeral providers that could reasonably be expected to result from retention or alteration of the Rule.

2. Should the Commission repeal the Rule? Whether you support or oppose repeal, the Commission will give more weight to those comments that provide a statement of the costs and benefits that could reasonably be expected to result from repeal of the Rule.

3. The replication study asked consumers who had arranged funerals whether, and at what time in the funeral transaction, they received information on prices and arrangements from the funeral provider. What are the advantages and disadvantages of relying on consumer recall and assessing the degree of compliance with the Rule and the Rule's impact on the funeral market? What evidence is there that consumers might not accurately report their experiences?

4. The replication study suggests that: (1) Approximately half of funeral providers give purchasers a general price list early in their meetings at the funeral home (before selection of a casket); (2) a majority of funeral providers give purchasers a properly itemized, written final statement at the conclusion of their arrangements conferences; (3) a majority of funeral

providers do not misrepresent casket for cremation or embalming requirements; and (4) a minority (about 30%) of funeral providers are simultaneously complying with all of three of the preceding provisions of the Rule. Do these fundings accurately reflect the level of industry with these Rule provisions? What other evidence exists on the level of industry compliance with these, and other, provisions of the Rule? Are these levels of compliance sufficient to permit accurate judgments about the impact of the Rule on funeral consumers and funeral providers? If not, what level of compliance would be sufficient?

5. Most of the replication study respondents made funeral arrangements about three years after the Rule took effect. What are the advantages and disadvantages of reviewing the Rule after that time? In particular, has there been adequate time to assess accurately the impact of the Rule on the funeral market?

6. The survey evidence suggests that consumers' total expenditures on individual funeral arrangements, adjusted for inflation, have increased over time. Still, that evidence cannot establish whether the increase in expenditures was due to an increase in the real prices of individual funeral goods and services, and increase in the quantity (or quality) of funeral goods and services purchased, or some combination of the two. What other evidence exists on the changes in real consumer expenditures and real funeral prices since promulgation of the Rule? To the extent such changes have occurred, what are the reasons for those changes? Could increases in funeral providers' costs of doing business be an explanation? (See Question 16 also). Are there studies or other analyses of real consumer expenditures and real funeral prices that show the effects of the Rule by isolating them from the effects of other factors?

7. The replication study results suggest that few consumers use the telephone to comparison shop among funeral providers or to seek price information. If this is the case, is there any reason to retain the Rule's affirmative telephone disclosure requirement that providers tell callers who inquire about the prices, terms, or conditions of funeral arrangements that price information is available over the telephone? Are consumers generally aware of their right to ask for and receive price information for funeral goods and services over the telephone? What other evidence exists on the extent to which consumers comparison shop before selecting a funeral home? Is

compliance with the telephone provisions of the Rule costly?

8. The Rule requires providers to reasonably answer, from the price lists and other readily available information, consumers' telephone requests for information about providers' funeral offerings or prices. Have any substantial costs arisen from this provision? If so, how do these costs compare to the provision's benefits? What problems, if any, have providers or consumers encountered as a result of this requirement? Is there any reason to believe that providers would not continue to provide requested price information over the telephone if the provision were repealed?

9. The preliminary analysis of the 1987 survey evidence indicates that: (1) Purchasers who received the price lists and the final statement required to be given or shown to consumers by the Rule spent no less on their funerals than purchasers who did not receive those documents; and (2) purchasers who received other forms of price information early in their arrangements conferences spent less on their funerals than individuals who did not receive that information early. Is this analysis correct? (To the extent feasible, the public is urged to comment on the underlying assumptions used in the analysis and on the validity of the econometric model itself.) What other evidence exists on the effects of the documents required to be given to consumers by the Rule on consumer expenditures and consumer choices? What other evidence exists on the effects of the provision of price information other than the documents required by the Rule on consumer expenditures and consumer choices?

10. Do consumers use the general price list in their selection of funeral goods and services? How do they use it? Do general price lists currently used by providers vary significantly in length, format, or the use of terminology? Would the adoption of a required standard format for the general price list change the way consumers or funeral providers use the lists in the funeral transaction? If so, how would their use change? The model general price list reproduced at the end of this section is intended to help focus your answer. Would such a required format impose any additional costs on providers? If so, what costs? What costs, if any, would be imposed on consumers? What, if any, are the benefits of a standardized format for the general price list, assuming that few consumers currently use the general price list to comparison

shop? (See "Model General Price List," which appears following Question 18.)

11. Many ANPR commenters suggested expanding the Rule's scope of coverage to all providers of funeral goods or services. Staff has received few complaints about the practices of cemeteries, crematories, or other sellers of funeral goods or funeral services currently not subject to the Rule. What evidence exists on the extent to which unfair or deceptive acts or practices proscribed by the Rule are committed by providers not currently subject to the Rule? What, if any, competitive disadvantage do providers covered by the Rule experience because actual or potential competitors not subject to the Rule engage in the provision of funeral goods and services covered by the Rule?

12. Some commenters suggest that the Rule should require that funeral providers offer the general price list upon beginning discussion of "prices or the selection of goods and services" instead of upon beginning of discussion of "funeral arrangements or the selection." Those commenters state that strict compliance with the term "funeral arrangements" can result in the GPL being offered at moments when consumers may not wish to discuss funeral arrangements, such as during removal of the body from the place of death. Would the suggested change alter in any material way the obligations of funeral providers or the rights of consumers under the Rule? If so, how? Is there any evidence that funeral providers have different interpretations of the term "funeral arrangements?" If so, please provide that evidence.

13. The Rule requires that the general price list that must be given to consumers contain several affirmative statements that provide detailed information concerning the goods and services offered. In each case, the exact language to be used is specified. Is there a need to retain the precise language currently required by the Rule for those disclosures? Should the Rule permit providers to use alternative language of their choosing, as long as the language discloses the substance of the information now required by the Rule? What are the costs and benefits of such a change?

14. Some commenters suggest that providers may charge high handling fees for arrangements where consumers supply their own caskets purchased from third-party casket sellers. How prevalent is this practice? What evidence is there that handling fees are necessary for providers in such cases to recoup fixed and overhead costs or profits lost on the sale of the casket?

Should the Rule address this practice? If so, how?

15. Some commenters suggest eliminating the requirement that providers obtain prior approval for embalming, stating that it is often difficult to comply with. What difficulties have providers encountered in seeking prior approval and how often have those difficulties occurred? What adverse effects, if any, have those difficulties had on the provision of funeral goods and services to consumers?

16. How have funeral providers' costs changed since the promulgation of the Rule? To what extent can these changes be attributed to the Rule?

17. Considerable time has passed since the close of the record on which the Rule was based. What studies, expert opinion, or anecdotal evidence exists concerning the relative degree of pre-purchase funeral information that is now available to consumers? To what extent, if any, does the availability of such information obviate the need for the Rule or any of its provisions?

18. To what extent do funeral providers comply with the casket and outer burial container price disclosure provisions by: (1) Preparing separate price lists that individuals can take with them when they leave the funeral home? (2) Including detailed casket and outer burial container price information on the general price list? (3) Preparing notebooks or binders that purchasers can review at the funeral home? What are the advantages and disadvantages of permitting funeral providers flexibility in complying with the provisions relating to casket and outer burial container price information?

Model General Price List (See Question 10)

ANY NAME FUNERAL HOME

100 Main Street
Yourtown, USA
(123) 456-7891

GENERAL PRICE LIST

(These Prices are Effective as of Month, Day, Year)

The goods and services shown below are those we can provide to our customers. *You may choose only those items you desire.* [However, any funeral arrangements you select will include a charge for our services.] If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.

This list does not include prices for certain items that you may ask us to buy for you, such as cemetery or crematory services, flowers, and newspaper notices. The prices for these items will be shown on your bill or

the statement describing the funeral goods and services you selected. [We charge you for our services in buying these items.]**

Forwarding of remains to another funeral home..... \$_____

This charge includes:

- *removal of remains
- *services of staff
- *necessary authorizations
- *embalming
- *local transportation (but not shipping charges)

Receiving of remains from another funeral home..... \$_____

This charge includes:

- *services of staff
- *care of remains
- *transportation of remains to cemetery or crematory

Direct cremations: \$_____ to \$_____

Our charge for a direct cremation (without ceremony) includes

- *removal of remains and transportation to crematory
- *cremations
- *necessary services of staff and authorizations

If you want to arrange a direct cremation, you can use an unfinished wood box or an alternative container. Alternative containers can be made of materials like heavy cardboard or composition materials (with or without outside covering), or pouches of canvas.

1. Direct Cremation with container provided by purchaser..... \$_____
2. Direct Cremation with alternative container..... \$_____
3. Direct Cremation with unfinished pine box..... \$_____

*If a consumer may not decline a charge for the services of funeral director and staff this sentence must be included here. Please see the compliance guides for a further explanation.

**This sentence should be omitted if the funeral director does not make a service charge or does not receive and retain a rebate, commission or trade or volume discount upon a cash advance item.

Immediate burials: \$_____ to \$_____

Our charge for an immediate burial (without ceremony) includes:

- *removal of body
- *local transportation to cemetery
- *necessary services of staff and authorizations

1. Immediate burial with container provided by purchaser..... \$_____
2. Immediate burial with unfurnished pine box..... \$_____
3. Immediate burial with beige cloth-covered soft wood casket with beige interior..... \$_____

Funeral arrangements:

Transfer of Remains to Funeral Home (within 50 mile radius)..... \$_____

Embalming..... \$_____

Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay for it, such as a direct cremation or immediate burial.

Other Preparation of Body	\$
Use of Facilities for Viewing:	
Main Stateroom (per day)	\$
Smaller Stateroom (per day)	\$
Use of Facilities for Funeral Ceremony:	
Chapel	\$
Smaller Stateroom	\$
Other Use of Facilities:	
Tent and chairs for graveside service	\$
Hearse	\$
Limousine	\$
Other Automotive Equipment:	
Flower car	\$
Family car	\$
Acknowledgement Cards	\$
Caskets	\$
(a complete price list will be provided at the funeral home.)	
Outer Burial Containers	\$
(A complete price list will be provided at the funeral home.)	
Other:	
Pallbearers (6)	\$
Burial clothing	\$
Service of Funeral Director and Staff	\$
Our charge includes arrangement of funeral and consultation with the family and clergy, preparation and filing of necessary notices, and authorizations and consents. This fee for our services will be added to the total cost of the funeral arrangements you select. (Such a fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)	

Section D. Public Hearings

Three sets of public hearings will be held on this proposed trade regulation rule review. The first will commence on November 7, 1988 at 9:30 a.m. in Room 332, 6th Street and Pennsylvania Avenue NW., Washington, DC. The second will commence on December 5, 1988 at 9:30 a.m. in Room 1437, 55 East Monroe Street, Chicago, Illinois. The third will commence on January 9, 1989 in Room 570, 901 Market Street, Suite 570, San Francisco, CA. Tentatively scheduled are 7 days of public hearings at each site.

Persons desiring to present their views orally at the hearings should advise Henry Cabell, Presiding Officer, Federal Trade Commission, Washington, DC 20580, 202-326-3642, as soon as possible.

The Presiding Officer appointed for this proceeding shall have all powers

prescribed in 16 CFR 1.13(c), subject to any limitations described in this notice.

Section E. Instruction to Witnesses

1. Advance Notice

If you wish to testify at the hearings, please notify the Presiding Officer immediately by letter or telephone of your desire to appear and file with him your complete, word-for-word statement no later than October 3, 1988 for witnesses at the Washington, DC hearings, November 1, 1988 for witnesses at the Chicago, Illinois hearings and December 1, 1988 for witnesses at the San Francisco, California hearings. [You may testify at only one of the hearings.] This advance notice is required so that other interested persons can determine the need to ask you questions and have an opportunity to prepare. Any cross-examination that is permitted may cover any of your written testimony, which will be entered into the record exactly as submitted. Consequently, it will not be necessary for you to repeat this statement at the hearing. You may simply appear to answer questions with regard to your written statement or you may deliver a short summary of the most important aspects of the statement within time limits to be set by the Presiding Officer. As a general rule, your oral summary should not exceed twenty minutes.

Prospective witnesses are advised that they may be subject to questioning by designated representatives of interested parties and by members of the Commission's staff. Prospective witnesses are also advised that they may be questioned about any data they have that supports or was used as a basis for general statements made in their testimony. Such questioning will be conducted subject to the discretion and control of the Presiding Officer and within such time limitations as he may impose. In the alternative, the Presiding Officer may conduct such examination himself or he may determine that full and true disclosure as to any issue or question may be achieved through rebuttal submissions or the presentation of additional oral or written statements. In all such instances, the Presiding Officer shall be governed by the need for a full and true disclosure of the facts and shall permit or conduct such examination with due regard for relevance to the factual issues raised by the proposed rule and the testimony delivered by each witness.

2. Use of Exhibits

Use of exhibits during oral testimony is encouraged, especially when they are

to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the period of submission of written comments so that they can be studied by other interested persons. If those documents are unavailable to you during this period you must file them as soon as possible thereafter and not later than the deadline for filing your prepared statement. Mark each of the documents with your name, and number them in sequence, (e.g., Jones Exhibit 1). Please also number all pages of each exhibit. The Presiding Officer has the power to refuse to accept for the rulemaking record any hearing exhibits that you have not furnished by the deadline.

3. Expert Witnesses

If you are going to testify as an expert witness, you must attach to your statement a curriculum vitae, biographical sketch, resume or summary of your professional background and a bibliography of your publications. It would be helpful if you would also include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with one or two major research studies, copies should be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

4. Results of Surveys and Other Research Studies

If in your testimony you will present the results of a survey or other research study, as distinguished from simple references to previously published studies conducted by others, you must also present as an exhibit or exhibits all of the following information that is available to you.

(a) A complete report of the survey or other research study and the information and documents listed in paragraphs (b) through (e) below if they are not included in the report.

(b) A description of the sampling procedures and selection process, including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

(c) Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in their own words rather than required to select an answer from one or more answers printed on the

questionnaire or suggested by the interviewer.

(d) A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents, and a sample questionnaire or other data collection instrument.

(e) A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested persons may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information, along with computer tapes that were used to conduct analyses, should be made available (with appropriate explanatory data) upon request of the Presiding Officer. The Presiding Officer will then be in a position to permit their use by other interested persons or their counsel.

5. Identification, Number of Copies, and Inspection

To assure prompt consideration, all materials filed by prospective witnesses pursuant to the instructions contained in paragraphs 1 through 4 above should be identified as "Funeral Rule Review Rulemaking Statement" ("and Exhibits," if appropriate), submitted in five copies when feasible and not burdensome, and should include the name, title, address, and telephone number of the prospective witness.

6. Reasons for Requirement

The foregoing requirements are necessary to permit us to schedule the time for your appearances and that of other witnesses in an orderly manner. Other interested parties must have your expected testimony and supporting documents available for study before the hearing so they can decide whether to question you or file rebuttals. If you do not comply with all of the requirements, the Presiding Officer has the power to refuse to let you testify.

7. General Procedures

These hearings will be informal and courtroom rules of evidence will not apply. You will not be placed under oath unless the Presiding Officer so requires. You also are not required to respond to any question outside the area of your written statement. However, if such questions are permitted, you may respond if you feel you are prepared and have something to contribute. The Presiding Officer will assure that all

questioning is conducted in a fair and reasonable manner and will allocate time according to the number of parties participating, the legitimate needs of each group for full and true disclosure, and the number and nature of the factual issues discussed. The Presiding Officer further has the right to limit the number of witnesses to be heard if the orderly conduct of the hearing so requires.

The deadlines established by this notice will not be extended and hearing dates will not be postponed unless hardship can be demonstrated.

Section F Notification of Interest

If you wish to avail yourself of the opportunity to question witnesses you must notify the Presiding Officer by July 30, 1988 of your position with respect to the proposed rulemaking proceeding. Your notification must be in sufficient detail to enable the Presiding Officer to identify groups with the same or similar interests respecting the general questions and issues provided in Section C. of this notice. The Presiding Officer may require the submission of additional information if your notification is inadequate. If you fail to file an adequate notification in sufficient detail, you may be denied the opportunity to cross-examine witnesses.

Before the hearings commence, the Presiding Officer will identify groups with the same or similar interests in the proceeding. These groups will be required to select a single representative for the purpose of conducting direct or cross-examination. If they are unable to agree, the Presiding Officer may select a representative for each group. The Presiding Officer will notify all interested persons of the identity of the group representatives at the earliest practicable time.

Group representatives will be given an opportunity to question each witness on any issue relevant to the proceeding and within the scope of the testimony. The Presiding Officer may disallow any questioning that is not appropriate for full and true disclosure as to relevant issues. The Presiding Officer may impose fair and reasonable time limitations on the questioning. Given that questioning by group representatives and the staff will satisfy the statutory requirements with respect to disputed issues, no such issues will be designated by the Presiding Officer.

Section G. Post-Hearing Procedures

The Presiding Officer will establish the time that you will be afforded after the close of the hearings to file rebuttal

submissions, which must be based only upon identified, properly cited matters already in the record. The Presiding Officer will reject all submissions which are essentially additional written comments rather than rebuttal. The rebuttal period will include the time consumed in securing a complete transcript.

Within a reasonable time after the close of the rebuttal period, the staff shall release its recommendations to the Commission as required by the Commission's Rules of Practice. The Presiding Officer's report shall be released not later than 30 days thereafter and shall include a recommended decision based upon his or her findings and conclusions as to all relevant and material evidence. Post record comments, as described in § 1.13(h) of the Rules of Practice, shall be submitted not later than 60 days after the publication of the Presiding Officer's report.

Section H. Rulemaking Record

In view of the substantial rulemaking records that have been established in prior trade regulation rulemaking proceedings (and the consequent difficulty in reviewing such records), the Commission urges all interested persons to consider the relevance of any material before submitting it for the rulemaking record.

While the Commission encourages comments on its proposed review of the Funeral Rule, the submission of material that is not generally probative of the issues posed by the review merely overburdens the rulemaking record and decreases its usefulness, both of these reviewing the record and to interested persons using it during the course of the proceeding. The Commission's rulemaking staff has received similar instruction.

Material that the staff has obtained during the course of its investigation prior to the initiation of the rulemaking proceeding but that is not placed in the rulemaking record will be made available to the public to the extent that it is considered to be nonexempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552.

The rulemaking record, as defined in 16 CFR 1.18(a), will be made available for examination in Room 130, Public Reference Room, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW, Washington, DC.

Section I. Preliminary Regulatory Analysis

I. Need for, and Objectives of, the Proposed Review

Section 453.10 of the Federal Trade Commission's (FTC) Funeral Industry Practices Trade Regulation Rule ("Funeral Rule" or "Rule") require the FTC to conduct a rulemaking amendment proceeding to determine whether the Rule should be retained as is, amended, or repealed. That section states:

No later than four years after the effective date of this rule, the Commission shall initiate a rulemaking amendment proceeding pursuant to section 18(d)(2)(B) to determine whether the rule should be amended or terminated. The Commission's final decision on the recommendations of this proceeding shall be made no later than eighteen months after the initiation of the proceeding.

The current Rule essentially requires funeral providers to: (1) Disclose prices, available options and other information regarding funeral arrangements to consumers in person and over the telephone; (2) make truthful representations regarding legal and other requirements concerning funeral arrangements; (3) permit consumers to select and purchase only those goods and services they desire; (4) seek to obtain express permission before embalming the deceased for a fee; (5) make truthful representations about the preservative and protective value of funeral goods and services; and (6) disclose whether they charge a fee for arranging cash advance purchases. The Commission has authorized publication of a Notice of Proposed Rulemaking, which appears in the Federal Register concurrently with this preliminary regulatory analysis.

The FTC proposes to review whether the Funeral Rule appears to be working as expected in reducing barriers to price competition and increasing consumer choice in the funeral market, whether some modification is necessary to facilitate those benefits, and whether repeal is warranted as a result of substantially reduced marketplace problems. The Commission has decided to leave all of the Rule's requirements, including the issue of repeal, open to question during the rulemaking proceeding. This decision is based on the fact that, unlike other proposed rulemaking proceedings, this amendment proceeding is mandated by the Funeral Rule itself. Detailed information regarding the evidence collected and reviewed in anticipation of this review proceeding is contained in sections of the Notice of Proposed Rulemaking that precede this document

and that is incorporated by reference into this analysis, in two survey reports entitled "FTC, Baseline and Follow-up Studies for Evaluating the Effect of the Funeral Rule, Final Report" (July 1982) and "Report on the Survey of Recent Funeral Arrangers," Market Facts, Inc., Report to the FTC (April 1988) and in two staff reports to the Commission dated April 7, 1988 and April 1988, which have been placed on the rulemaking record. This body of information presents evidence on the Rule's market impact that will be considered by the FTC in conjunction with all other evidence contained in the rulemaking record as a whole.

II. Legal Authority

The Commission has reason to believe that the amendment proceeding is in the public interest and proposes to review the Funeral Rule in accordance with section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a.

III. Alternatives Considered by the Commission

The Commission can take several different forms of action. It can repeal the Rule, modify or repeal specific Rule provisions, or retain the Rule unchanged. The Commission discusses below the costs and benefits of repeal and no action. It is not able at this time to discuss the costs and benefits of each possible modification to the Funeral Rule's many provisions, because the available information presents some evidence to support and refute arguments that certain provisions' costs outweigh their benefits, and because it is unclear at this time whether the Rule is sufficiently in place in the market to permit accurate judgments about costs and benefits. Of course, the Commission shall consider those costs and benefits when it takes final action on this review.

1. Repeal the Rule

Under this option, the Commission would delete the Funeral Rule from the Body of trade regulation rules currently contained in the Code of Federal Regulations.

2. Take No Action

Under this option, the existing Rule would remain unchanged.

IV. Cost-Benefit Analysis

The two major groups that would be affected by repeal of the Funeral Rule are the funeral consumers who use the services and goods of funeral providers to make funeral arrangements, and the funeral providers themselves.

The funeral industry is a major industry in the United States, composed

primarily of small businesses. According to industry estimates, there are currently slightly less than 22,000 funeral homes in the nation, about 50,000 licensed funeral directors and embalmers, and several hundred crematories geographically dispersed throughout the country. The number of deaths is about two million annually, and individual funeral homes conduct on average about 94 funerals a year. Consumers' current annual expenditures for funeral services is estimated by industry observers at approximately \$4 billion, not including other funeral-related expenditures, such as cemetery charges and incidental items purchased for most individual funerals from third parties. These latter costs may raise consumers' funeral costs by as much as \$2 billion or more. The Rule does not currently cover cemeteries that do not also operate funeral homes, sellers of only funeral goods, such as retail sellers of caskets, or sellers of only funeral services, such as direct cremation firms that do not sell funeral goods. The Rule's beneficiaries are consumers who use the services of funeral homes and crematories that provide services and sell funeral goods directly to the public.

A. Repeal the Current Rule

The Commission has considered the issue of repeal, and has decided to leave the issue open to question during the proceeding. The benefits of repealing the Rule are the savings incurred by avoiding the costs of the Rule's continued implementation, and the cost of repealing it equals the lost benefits from continued implementation.

Projected Benefits—1. Benefits to Funeral Providers: If the Rule is rescinded, providers may be able to realize savings from elimination of certain expenses associated with compliance with the Rule. These costs fall primarily into five categories.

a. *Making Telephone Disclosures.* The Rule requires providers to provide telephone callers with readily available information that answers callers' requests for price information. To the extent the Rule causes increased telephone requests for price information, it thus results in increased time spent by funeral home personnel in giving that information. If the Rule does not cause more such requests, it does not impose any excess personnel costs.

b. *Recordkeeping Costs.* The Rule requires providers to retain for one year copies of general price lists distributed to consumers and copies of required statements of items selected given to consumers for each funeral. The Rule thus imposes increased management

and labor costs associated with maintaining those files.

c. *Reproduction Costs.* The Rule requires providers to give the general price list to consumers for their retention. It therefore imposes copying costs that permit copies of the lists to be provided to consumers.

d. *Updating Price Lists.* Providers must, under the Rule, update the rule-required price lists as their prices or offerings change. To the extent that providers already recalculate their prices whenever their costs or offerings change, the Rule imposes only those costs associated with the time necessary to transpose those prices to the price lists.

e. *Seeking Embalming Approval.* The Rule requires providers to seek to obtain express prior approval from a family member or other authorized person before embalming deceased human remains for a fee. To the extent the Rule causes providers to spend additional time seeking embalming authorization, it imposes the costs of that additional time.

2. *Benefits to Consumers:* Because any increased cost of doing business under the Rule is passed on to the consumer, the cost savings to providers from the Rule's repeal (discussed above) may benefit the consumer in the form of lower prices or improved services.

Costs and Adverse Economic Effects

1. *Cost to Providers:* No costs or adverse economic effects to providers would be expected from repeal of the Rule.

2. *Costs to Consumers:* Repeal of the Funeral Rule would eliminate any economic or emotional benefits that consumers presently derive from the Rule. Assuming that the Rule is operating as the Commission expected in promulgating it, the Rule generates two types of benefits for consumers.

a. *Price Competition Benefits.* The Rule is designed to alert consumers that price information is relevant and available at the critical moment of choosing a funeral provider, and to ensure that consumers can obtain sufficient price information to comparison shop among different funeral providers. Comparison shopping, by individual consumers or by groups such as memorial societies on consumers' behalf, may stimulate price competition among funeral providers so that consumers are better able to get the maximum for their money.

b. *Itemization Benefits.* The Rule is designed to give consumers, once they have selected a provider, the opportunity to consider various options and purchase only those items they desire.

B. Take no Action

The Commission could choose to take no action and leave the current Rule unchanged. In this case, the costs and benefits currently generated by the Rule would continue. The costs of the Rule are described in the previous section discussing the benefits of repeal. The benefits of the Rule are described in the previous section discussing the costs of repeal.

V. Summary and Explanation of Why the Commission Proposes to Review the Rule

The Commission has considered the options summarized in Part III of this analysis, and the costs and benefits of each. The Commission has concluded, based on the unique mandate of § 453.10 of the Rule, that a rulemaking amendment proceeding leaving all issues open to question would best serve the public interest by facilitating further exploration of these and any other options available in determining whether the Rule should be retained, amended, or repealed.

List of Subjects in 16 CFR Part 453

Funeral homes, Price disclosure, Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 88-12041 Filed 5-27-88; 8:45 am]

BILLING CODE 6750-01-M

Tuesday
May 31, 1988

Testis: Great Testis

Part IV

Education Department

Pell Grant, Perkins Loan, College Work-Study, Supplemental Educational Opportunity Grant and Guaranteed Student Loan Programs; Revision of the Need Analysis Systems for the 1988-89 Academic Year; Notice of Revision to the Congressional Methodology and Family Contribution Schedule Methodology for the 1989-90 Award Year

DEPARTMENT OF EDUCATION

Pell Grant, Perkins Loan (Formerly the National Direct Student Loan), College Work-Study, Supplemental Educational Opportunity Grant and Guaranteed Student Loan Programs; Revision of the Need Analysis Systems for the 1988-89 Academic Year

AGENCY: Department of Education.

ACTION: Notice of revision to the Congressional Methodology and the Family Contribution Schedule methodology for the 1989-90 award year.

SUMMARY: The Secretary of Education announces the annual updates to tables used in the need analysis methodologies that an institution of higher education must use in calculating expected family contributions for the 1988-89 award year under the Pell Grant, campus-based (Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant), and Guaranteed Student Loan programs. The Secretary takes this action under the authority of Title IV of the Higher Education Act of 1965, as amended (HEA).

FOR FURTHER INFORMATION CONTACT:

Ms. Cheryl Leibovitz, Program Specialist, Pell Grant Branch, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue SW. (Room 4318, ROB-3), Washington, DC 20202. Telephone (202) 732-4888.

SUPPLEMENTARY INFORMATION: The need analysis methodologies are used to determine student eligibility for assistance under Title IV of the Higher Education Act of 1965, as amended (HEA). There are two need analysis methodologies used under the above programs for determining a student's expected family contribution. One methodology, the Family Contribution Schedule, is used to calculate a student's expected family contribution for the Pell Grant Program. In the Pell Grant Program, a student's expected family contribution is also known as the Student Aid Index (SAI). The other methodology, the Congressional Methodology, is used to calculate a student's expected family contribution for the campus-based (Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant) and Guaranteed Student Loan programs. Both of these methodologies are established by statute.

The HEA provides for the following annual updates:

I. Pell Grant Family Contribution Schedule

Sections 411A through 411F of the HEA specify the criteria, data elements, calculations, and tables used to calculate expected family contributions for the Pell Grant Program. For award years after the 1988-89 award year, the Secretary is required to publish revised Family Size Offset Tables. The Family Size Offset is an offset against income for the family's basic living expenses and it varies by family size.

Based on the most recent and relevant information (March 1987-88), the Secretary must revise the tables by increasing (or decreasing) the comparable amount for the preceding academic year by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounded to the nearest \$100. The Consumer Price Index for Wage Earners and Clerical Workers was 111.0 in March 1987 and 115.1 in March 1988. Accordingly, for the 1989-90 award year for the Pell Grant Program, the Family Size Offset Tables are revised as follows:

Family size offsets

	Amount
Family members:	
1.....	\$5,500
2.....	6,900
3.....	8,400
4.....	10,800
5.....	12,800
6.....	14,300

Note.—Plus \$1,800 for each additional family member.

Dependent student offsets

	Amount
Marital status:	
Single	\$3,600
Married	5,300

II. Congressional Methodology

Part F of Title IV of the HEA specifies the criteria, data elements, calculations, and tables for a schedule of expected family contributions for the campus-based and GSL programs. In addition, Part F requires that four of the tables, the Standard Maintenance Allowance, the Adjusted Net Worth of a Business or Farm, the Asset Protection Allowance, and the Assessment Schedules and Rates, be adjusted each year to take into account inflation that has taken place after December 31 of the previous year

based, in general, upon increases in the Consumer Price Index.

For award year 1989-90, the Secretary is charged with updating the four tables to account for inflation that took place between December 1987 and December 1988. However, since the Secretary must publish these tables before December 1988, the increases in the tables must be based upon an estimate of the increase in the Consumer Price Index for 1988.

The Secretary estimates that the increase in the Consumer Price Index for the period December 1987, through December 1988, will be 4.5 percent. Therefore, for the 1989-90 award year for the campus-based and Guaranteed Student Loan Programs, the tables set forth in Part F have been updated as follows in sections 1 through 4 in accordance with this estimate and the other relevant provisions of Part F.

Part F also requires the Secretary to increase the maximum value for the Employment Expense Allowance to account for inflation based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-earner compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. Therefore, the Secretary is increasing this allowance as described below in section 5.

1. Standard Maintenance Allowance

This allowance is an offset against income for the family's basic living expenses, and it varies by family size. The standard maintenance allowances for dependent students and independent students with dependents for award year 1989-90 are:

Family size ¹	Number in college—				
	1	2	3	4	5
2.....	\$8,930	\$7,410			
3.....	11,130	9,600	\$8,080		
4.....	13,740	12,220	10,690	\$9,170	
5.....	16,210	14,690	13,170	11,640	\$9,050
6.....	18,960	17,440	15,920	14,390	12,870

¹ Including student.

Note.—For each additional family member add \$2,140. For each additional college student subtract \$1,520.

2. Adjusted Net Worth (NW) of a Business or Farm

A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution since: (1) The income produced from such assets is already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets. The portion of these assets

included in the contribution calculation is computed according to the following schedule. This schedule is used for dependent students, independent students without dependents, and independent students with dependents.

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than \$1.....	\$0
\$1 to \$65,000.....	\$0+40% of NW
\$65,001 to \$190,000.....	\$26,000+50% of NW over \$65,000
\$190,001 to \$320,000.....	\$88,500+60% of NW over \$190,000
\$320,001 or more.....	\$166,500+100% of NW over \$320,000

3. Asset Protection Allowance

This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary education expenses. There are three asset protection allowance tables, one each for parents of dependent students, independent students without dependents, and independent students with dependents.

DEPENDENT STUDENTS

If the age of the older parent is—	And there are	
	Two parents	One parent
25 or less.....	0	0
26.....	\$2,200	\$1,600
27.....	4,300	3,200
28.....	6,500	4,900
29.....	8,600	6,500
30.....	10,800	8,100
31.....	13,000	9,700
32.....	15,100	11,300
33.....	17,300	13,000
34.....	19,400	14,600
35.....	21,600	16,200
36.....	23,800	17,800
37.....	25,900	19,400
38.....	28,100	21,100
39.....	30,200	22,700
40.....	32,400	24,300
41.....	33,300	24,900
42.....	34,100	25,400
43.....	34,800	26,000
44.....	35,700	26,500
45.....	36,600	27,100
46.....	37,600	27,800
47.....	38,800	28,500
48.....	39,800	29,000
49.....	40,800	29,700
50.....	41,900	30,400
51.....	43,200	31,200
52.....	44,300	32,100
53.....	45,800	32,900
54.....	47,200	33,700
55.....	48,700	34,500
56.....	50,200	35,500
57.....	51,800	36,300
58.....	53,400	37,400
59.....	55,400	38,500

DEPENDENT STUDENTS—Continued

If the age of the older parent is—	And there are	
	Two parents	One parent
60.....	57,100	39,600
61.....	59,100	40,700
62.....	60,900	41,900
63.....	63,100	43,100
64.....	65,300	44,300
65 or more.....	67,500	45,700

Independent students without dependents

If the age of the student is—	Then the asset protection allowance is—
25 or less.....	0
26.....	\$1,600
27.....	3,200
28.....	4,900
29.....	6,500
30.....	8,100
31.....	9,700
32.....	11,300
33.....	13,000
34.....	14,600
35.....	16,200
36.....	17,800
37.....	19,400
38.....	21,100
39.....	22,700
40.....	24,300
41.....	24,900
42.....	25,400
43.....	26,000
44.....	26,500
45.....	27,100
46.....	27,800
47.....	28,500
48.....	29,000
49.....	29,700
50.....	30,400
51.....	31,200
52.....	32,100
53.....	32,900
54.....	33,700
55.....	34,500
56.....	35,500
57.....	36,300
58.....	37,400
59.....	38,500
60.....	39,600
61.....	40,700
62.....	41,900
63.....	43,100
64.....	44,300
65 or more.....	45,700

INDEPENDENT STUDENTS WITH DEPENDENTS

If the age of the student is—	And the student is—	
	Married	Unmarried
25 or less.....	0	0
26.....	\$2,200	\$1,600

INDEPENDENT STUDENTS WITH DEPENDENTS—Continued

If the age of the student is—	And the student is—	
	Married	Unmarried
27.....	4,300	3,200
28.....	6,500	4,900
29.....	8,600	6,500
30.....	10,800	8,100
31.....	13,000	9,700
32.....	15,100	11,300
33.....	17,300	13,000
34.....	19,400	14,600
35.....	21,600	16,200
36.....	23,800	17,800
37.....	25,900	19,400
38.....	28,100	21,100
39.....	30,200	22,700
40.....	32,400	24,300
41.....	33,300	24,900
42.....	34,100	25,400
43.....	34,800	26,000
44.....	35,700	26,500
45.....	36,600	27,100
46.....	37,600	27,800
47.....	38,800	28,500
48.....	39,800	29,000
49.....	40,800	29,700
50.....	41,900	30,400
51.....	43,200	31,200
52.....	44,300	32,100
53.....	45,800	32,900
54.....	47,200	33,700
55.....	48,700	34,500
56.....	50,200	35,500
57.....	51,800	36,300
58.....	53,400	37,400
59.....	55,400	38,500
60.....	57,100	39,600
61.....	59,100	40,700
62.....	60,900	41,900
63.....	63,100	43,100
64.....	65,300	44,300
65 or more.....	67,500	45,700

4. Assessment Schedules and Rates

Three schedules, one each for dependent students, independent students without dependents, and independent students with dependents are used to determine the expected contribution toward educational expenses from family financial resources.

For dependent students, the expected parental contribution is derived from the parents' adjusted available income (AAI). The AAI represents a measure of a family's financial strength which considers both income and assets. The parents' contribution for a dependent student is computed according to the following schedule:

If the AAI is—	Then the contribution is—
Less than —\$3,409..	—\$750
—\$3,409 to \$8,000 ..	22% of AAI
\$8,001 to \$10,000 ..	\$1,760+25% of AAI over \$8,000
\$10,001 to \$12,000 ..	\$2,260+29% of AAI over \$10,000
\$12,001 to \$14,100 ..	\$2,840+34% of AAI over \$12,000
\$14,101 to \$16,100 ..	\$3,553+40% of AAI over \$14,100

\$16,101 or more..... \$4,354 + 47% of AAI
over \$16,100

For independent students without dependents, and increasing percentage of their available taxable income (ATI) is included in the expected contribution. The ATI is adjusted gross income minus allowances for Federal, State and local income taxes and social security taxes. The contribution from the ATI for an independent student without dependents is computed according to the following schedule:

If the ATI is— Then the contribution is—
Less than \$9,200..... 70% of ATI
\$9,201 or more..... \$6,440 + 90% of ATI
over \$9,200

For independent students with dependents, the expected contribution is derived from the adjusted available income (AAI). The AAI represents a measure of a family's financial strength

which considers both income and assets. The contribution for an independent student with dependents is computed according to the following schedule:

If the AAI is—	Then the contribution is—
Less than —\$3,409..	—\$750
—\$3,409 to \$8,000 ...	22% of AAI
\$8,001 to \$10,000	\$1,760 + 25% of AAI over \$8,000
\$10,001 to \$12,000 ...	\$2,260 + 29% of AAI over \$10,000
\$12,001 to \$14,100 ...	\$2,840 + 34% of AAI over \$12,000
\$14,101 to \$16,100 ...	\$3,554 + 40% of AAI over \$14,100
\$16,101 or more.....	\$4,354 + 47% of AAI over \$16,100

5. Employment Expense Allowance

This allowance for employment-related expenses, that is used for dependent students and independent students with dependents, recognizes additional expenses incurred by working spouses and single-parent

households. The allowance is based upon the marginal differences in costs for a two-earner family compared to a one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. The employment expense allowance for dependent students and independent students with dependents is the lesser of \$2,130 or 35 percent of earned income.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Supplemental Educational Opportunity Grant Program; 84.032 Guaranteed Student Loan Program; 84.033 PLUS Program; 84.033 College Work-Study Program; 84.038 Perkins Loan Program; 84.063 Pell Grant Program; 84.069 State Student Incentive Grant Program)

Dated: May 26, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88-12150 Filed 5-27-88; 8:45 am]

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2000-End	6.50	Jan. 1, 1988
8	11.00	Jan. 1, 1988
9 Parts:		
1-199	19.00	Jan. 1, 1988
200-End	17.00	Jan. 1, 1988
10 Parts:		
0-50	18.00	Jan. 1, 1988
51-199	14.00	Jan. 1, 1988
200-399	13.00	Jan. 1, 1987
400-499	13.00	Jan. 1, 1988
500-End	24.00	Jan. 1, 1988
11	10.00	July 1, 1988
12 Parts:		
1-199	11.00	Jan. 1, 1988
200-219	10.00	Jan. 1, 1988
220-299	14.00	Jan. 1, 1988
300-499	13.00	Jan. 1, 1988
500-599	18.00	Jan. 1, 1988
600-End	12.00	Jan. 1, 1988
13	20.00	Jan. 1, 1988
14 Parts:		
1-59	21.00	Jan. 1, 1988
60-139	19.00	Jan. 1, 1988

Title	Price	Revision Date
140-199	9.50	Jan. 1, 1988
200-1199	20.00	Jan. 1, 1988
1200-End	12.00	Jan. 1, 1988
15 Parts:		
0-299	10.00	Jan. 1, 1988
300-399	20.00	Jan. 1, 1988
400-End	14.00	Jan. 1, 1988
16 Parts:		
0-149	12.00	Jan. 1, 1988
150-999	13.00	Jan. 1, 1988
1000-End	19.00	Jan. 1, 1988
17 Parts:		
*1-199	14.00	Apr. 1, 1988
200-239	14.00	Apr. 1, 1987
240-End	19.00	Apr. 1, 1987
18 Parts:		
1-149	15.00	Apr. 1, 1987
150-279	14.00	Apr. 1, 1987
280-399	13.00	Apr. 1, 1987
400-End	8.50	Apr. 1, 1987
19 Parts:		
1-199	27.00	Apr. 1, 1987
200-End	5.50	Apr. 1, 1987
20 Parts:		
1-399	12.00	Apr. 1, 1987
400-499	23.00	Apr. 1, 1987
500-End	24.00	Apr. 1, 1987
21 Parts:		
1-99	12.00	Apr. 1, 1987
*100-169	14.00	Apr. 1, 1988
170-199	16.00	Apr. 1, 1987
200-299	5.00	Apr. 1, 1988
300-499	26.00	Apr. 1, 1987
500-599	21.00	Apr. 1, 1987
*600-799	7.50	Apr. 1, 1988
800-1299	16.00	Apr. 1, 1988
*1300-End	6.00	Apr. 1, 1988
22 Parts:		
1-299	19.00	Apr. 1, 1987
300-End	13.00	Apr. 1, 1987
23	16.00	Apr. 1, 1987
24 Parts:		
0-199	14.00	Apr. 1, 1987
200-499	26.00	Apr. 1, 1987
500-699	9.00	Apr. 1, 1987
700-1699	18.00	Apr. 1, 1987
1700-End	12.00	Apr. 1, 1987
25	24.00	Apr. 1, 1987
26 Parts:		
§§ 1.0-1.60	12.00	Apr. 1, 1987
§§ 1.61-1.169	22.00	Apr. 1, 1987
§§ 1.170-1.300	17.00	Apr. 1, 1987
§§ 1.301-1.400	14.00	Apr. 1, 1987
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§§ 1.641-1.850	17.00	Apr. 1, 1987
§§ 1.851-1.1000	27.00	Apr. 1, 1987
§§ 1.1001-1.1400	16.00	Apr. 1, 1987
§§ 1.1401-End	20.00	Apr. 1, 1987
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30-39	13.00	Apr. 1, 1987
40-49	12.00	Apr. 1, 1987
50-299	14.00	Apr. 1, 1987
300-499	15.00	Apr. 1, 1987
500-599	8.00	Apr. 1, 1980
600-End	6.00	Apr. 1, 1987
27 Parts:		
1-199	21.00	Apr. 1, 1987
200-End	13.00	Apr. 1, 1987
28	23.00	July 1, 1987

Title	Price	Revision Date	Title	Price	Revision Date
29 Parts:			42 Parts:		
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1926.....	10.00	July 1, 1987	1000-3999.....	24.00	Oct. 1, 1987
1927-End.....	23.00	July 1, 1987	4000-End.....	11.00	Oct. 1, 1987
30 Parts:			44.....	18.00	Oct. 1, 1987
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200-699.....	8.50	July 1, 1987	1-199.....	14.00	Oct. 1, 1987
700-End.....	18.00	July 1, 1987	200-499.....	9.00	Oct. 1, 1987
31 Parts:			500-1199.....	18.00	Oct. 1, 1987
0-199.....	12.00	July 1, 1987	1200-End.....	14.00	Oct. 1, 1987
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33 Parts:			0-19.....	17.00	Oct. 1, 1987
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² No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1987. The CFR volume issued January 1, 1987, should be retained.

³ No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1988. The CFR volume issued as of Apr. 1, 1980, should be retained.

⁴ The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

⁵ No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1987. The CFR volume issued as of July 1, 1986, should be retained.

⁶ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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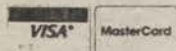
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